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My objective is to give the concepts of fairness and equity closer scrutiny so we can see why they still elude us in a country which considers itself modern, enlightened and democratic.”



Roberta Jamieson
OMBUDSMAN

MESSAGE FROM THE

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MAN

This has been a year of tough challenges. This has also been a year of significant advance toward providing the people of Ontario with the best possible Ombudsman services. Yet at year's end, it is clear there is still more to be done.

In my last Annual Report, I published a Mission Statement to set out the standards and directions to which I expected to be held accountable. The Statement was intended to serve as a set of objectives against which accomplishments could be measured a year hence.

It is one thing, of course, to make a statement, another to put it into practice, and still another to achieve the intended results. The way things have always been done seems so comfortable, and the implementation of new approaches may be stressful. The experience of creating fundamental changes in my own organization has made me even more appreciative of the difficulties which face any administrator engaged in a similar task.

To assist in changing operations to support the Mission Statement, an action plan was set out and continues in effect. Internal standards based on the Mission Statement are being adopted against which the quality of service provided can be measured.

I am acutely aware that if I am to be credible in my evaluations as to whether others are being fair and just, my own operations must be able to meet the same standards.

NEW DEMANDS TO MEET NEW TIMES

Even in quiet and ordinary times, there are new challenging requests for the assistance of the Ombudsman. In 1991-92, requests were even more challenging and complex than usual because of the dynamic changes which are taking place in Ontario and in the world. New issues are coming forward for which there are no easy resolutions. Considerable effort is required to make progress when even maintaining the status quo is difficult. There have been many issues competing for my attention and energies.

These are times of stress for governments at all levels, and for individuals, families and communities. Difficult tensions result when minor adjustments can no longer accommodate the rapid, unexpected, fundamental global changes which make radical restructuring almost a way of life. Ontario is not immune from these tensions.

The still-increasing diversity of the province's population brings out new issues. People are moving beyond equality to insist upon equitable treatment which is sensitive and responsive to cultural, physical, and religious differences. They are demanding the removal of obstacles which prevent themselves and others from making their maximum contribution to the common good. New debates of old concepts such as fairness and justice are re-sculpting ideas which were thought to be written in stone. On the other hand, there are tensions raised by those who are fearful and troubled by

the readjustments in power and resources which are taking place. There is a common perception that the pie to be cut is of a fixed size, and that more people taking their share will mean a decrease in the amount people are accustomed to receive. This is especially true in difficult times when the pie appears to be shrinking. Consequently, the argument that the pie will get bigger if more space can be made for all people to make their full contribution too often meets an emotional rather than a rational response.

There are also tensions between the expectation that decision-makers will make decisions and the expectation that the public be fully involved in decision-making. They want to be consulted. The public is making increased demands for higher standards in the administration of government. The public is demanding accountability as never before. Administrators are called upon to do more with less, and to do it better, while at the same time respond to a

public increasingly impatient for improvements in public service so that Ontario can respond well to the demands of the 21st Century. Available resources for government services are shrinking, and the public is raising new issues as to how government spends money and determines its priorities. The result is that I am receiving many more complaints about government spending decisions, or that the public was not consulted in setting priorities for the use of available funds.

TRENDS AND INCREASES IN COMPLAINTS

I have noted two disparate trends which seem to be causing parallel increases. There is swelling activism and involvement in matters which until recently were left to government to do in its own way. At the same time there is an increase in the number of persons who feel powerless and unprotected. Government is so big and so powerful and involved in so many aspects of our lives, members of the public sometimes feel they have no control, no way to be heard in an increasingly impersonal computerized society. They feel that ordinary methods of having a complaint resolved no longer work, and that a person must have assistance if action is to be obtained. This is especially true of those who are the most vulnerable to injustice, and the least able to seek remedies. The result is that I and my staff are called upon to provide assistance to the activist and the powerless, and all degrees between, and in increasing volume.

Another trend I have noted relates, I believe, to the current recession. Even in the best of economic times, an Ombudsman can expect to receive concerns about employment or employability, health, economic loss, or damage to a person's well-being. In recessionary times, not only are there more people asking for Ombudsman services with respect to matters such as social assistance, but these same concerns take on new importance. Persons feeling economic pressures are more inclined to want action on a concern.



They press their complaint with greater forcefulness and conviction, and they are not easily persuaded when their complaint is not supported. The public often considers "government" responsible for their economic difficulties, and they feel resentment when they see public servants not facing hardships similar to their own. The result is less tolerance for any breach of courtesy, any delay, any laxity in the government's administration.

[AWARENESS AND OUTREACH OF THE OMBUDSMAN]

I consider it part of my responsibility to assist in creating the atmosphere which makes it conducive for people to come forward with concerns and ideas about how government administration can improve. An important element of public education activity is to demonstrate that it is possible for the "ordinary person" to obtain relief from problems caused by government action or inaction. In these times when people feel powerless in their dealings with the massive institutions which seem to tower over their lives, the Ombudsman demonstrates that there are things the people can do to achieve change in government. A strong sense of power by the people is essential to the functioning and enhancement of democracy. People need to understand and to be reminded of democratic principles – that the government belongs to them, that no one is defenceless before government, that there is a right to petition the government for redress of grievance.

One of my major objectives has been to ensure there is adequate public awareness among all segments of the population in every part of Ontario about how to access the Ombudsman's services. Awareness also means knowing what those services are. Last year, I commissioned a public opinion poll which reported there are still far too many people who are unaware of the services provided by the Ombudsman – particularly among those groups who are most vulnerable to problems relating to government administration and who have the most limited resources to deal with these problems. A summary of the survey results was printed in my last Report.

To move toward remedying this situation in one area of Ontario, in March, I launched a modest six-week campaign designed to bring the Ombudsman's services to the attention of more people in Metropolitan Toronto and the Golden Horseshoe, reaching 52% of the province's population in one effort. The campaign was shaped to create greater public consciousness of how the Ombudsman can work with the public to improve government administration.

The awareness campaign also will help, I hope, to create a different image of the Ombudsman. Historically, the Ombudsman is considered to be where one takes complaints about public administration. Naturally, bureaucracies have

reacted defensively. In my experience, this confrontational environment can make resolution of problems difficult.

From the outset of my tenure, I have tried to create an image (and reality) of a Legislative Official whose role is to assist the people of the province to resolve concerns and issues which they might have in their affairs with government, and reciprocally, a role which assists agencies to respond to new standards of fairness in administration and to identify and eliminate problems of adhering to them.

[ONTARIO'S NORTHERN COMMUNITIES]

I am also acutely aware of how much needs to be done to meet the challenge of providing services to remote communities. In February, I visited a number of James Bay communities including; Moose Factory, Fort Albany, Kashechewan, Attawapiskat, and Peawanuck. I found the nature of complaints which were presented to me entirely different than those received in other parts of the province. I found complaints causing on-going problems which have their roots shrouded in mists of history and tangled by unclear or disputed federal and provincial responsibilities. Attempts to resolve these long-standing issues and concerns have to take these factors into account as well as factors of isolation, cultural differences, and the absence of ordinary resources.

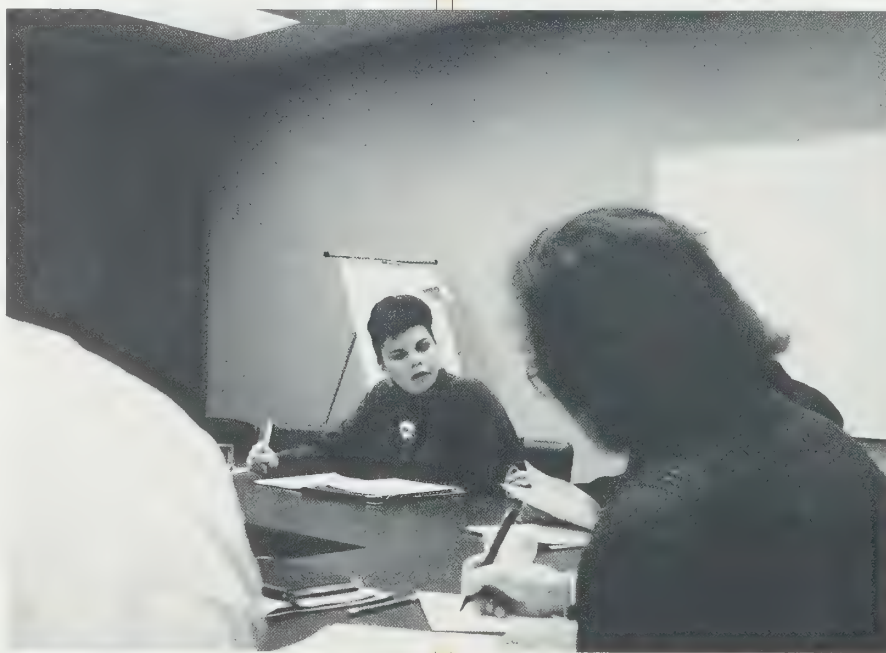
I am also cognizant that First Nation cultures may have unique ways of viewing and dealing with complaints. Some, for instance, may be accustomed to having a chief or elder speak on behalf of individuals.

There are questions of collective rights to be addressed. Treaties and international conventions may also bear on the way a complaint would be viewed and resolved.

I was pleased for the first time, as Ombudsman, to visit communities and groups in the Kenora, Emo, and Fort Frances areas. Here, as it was in the James Bay area, my attention was directed to a relative lack of resources, access to services, knowledge of government and the public's rights to fair administration. Very special issues and concerns arise because of isolation, especially for the elderly and persons whose absence of good health restricts their daily lives. My own services, for instance, must take into account

that the usual requirement that all avenues of appeal must be exhausted may be inappropriate where there is a deep-seated belief among the people of the region that the appeal process has no credibility.

That is the most distressing circumstance I encountered in Ontario's north country – a total lack of faith that any complaint presented to the government will ever be addressed at all, or if addressed, that it will be dealt with fairly and justly. Every governmental organization must address this





situation and the powerlessness which the people of the area feel so intensely.

Throughout the North, but especially in the First Nation communities where conditions exist which would not be tolerated anywhere else in Canada, governmental organizations

must join with communities to take special, even unusual creative initiatives which have measurable short and long-term goals against which progress can be regularly evaluated.

PUBLIC EDUCATION

I have given careful study to the way in which I can use district offices to improve outreach and access without increasing costs or creating new complications in the Ombudsman's processes. Staff have undertaken a variety of public education activities, particularly at the high school and community college levels. In consultation with school boards, plans are being made for a more structured approach to develop appropriate curricula. I am developing a separate strategy to reach youth not affiliated with any school system. I continue to be concerned about any services being accessible to persons who have limited reading and writing skills.

Because the survey showed that groups who are more vulnerable knew less about my services, priority in the public education program is given to them in keeping with the Mission Statement that all people in Ontario should be aware of my services. Strategic plans for public education dealing with this concern have been developed for each of the district offices.

A computerized information system using available census and other demographic data is being developed to support these plans. Through the system, comparison will be possible between various categories of the population using my services in a particular area with the actual demographic data. This will help to identify population groups which are not being served. The system will also assist in monitoring the public education activities undertaken in relation to the groups which require special effort.

These and other public education initiatives are coupled with intake clinics designed to make services more accessible to all people of the province, regardless of where they live. Communications with district offices have been improved with the installation of fax machines and telephone service (TDDs) for people who are hard of hearing or deaf. Staff complements will soon be at full strength, and I will then be offering bilingual services in all designated areas of Ontario.

I and members of my staff are continuing to improve our

ability to communicate with clients in a manner which is culturally and linguistically appropriate to each client, as well as being clear and concise. Achieving this goal means overcoming problems of lack of translators, budgeting funds to pay for their services, etc., and doing so in a manner which does not contribute to delay in dealing with the complaint.

Among the persons who are vulnerable to problems with government and who may have difficulty in protecting their rights and interests are persons with disabilities. These same persons may not always be able to bring a matter to the attention of the Ombudsman. A Bill is before the Legislature (the *Advocacy Act*) which would appoint advocates who, among other duties, would be able to assist such persons in obtaining the Ombudsman's services. While I do not wish to pre-empt the Legislature's prerogatives in considering the Bill, I do welcome any provision of assistance to persons with disabilities to access my services as well.

The Bill also provides me with the opportunity to comment on the difference between an "advocate" and the Ombudsman. Advocates speak on behalf of their clients. They represent a point of view. This is necessary and desirable in a democratic society. This differs in two important respects from the work of an Ombudsman, however. The Ombudsman does not advocate, but maintains a neutral and independent position throughout her investigation and in presenting her findings and recommendations. Furthermore, the Ombudsman has been equipped by the Legislature with significant powers of investigation, including the ability to access documents, examine witnesses under oath, as well as the power to present to the Legislature any problems she has in securing the implementation of her recommendations. Given these differences in function and power, it is important that the provision of advocacy services at all times is not confused with or does not limit the access of the group to the services of the Ombudsman.

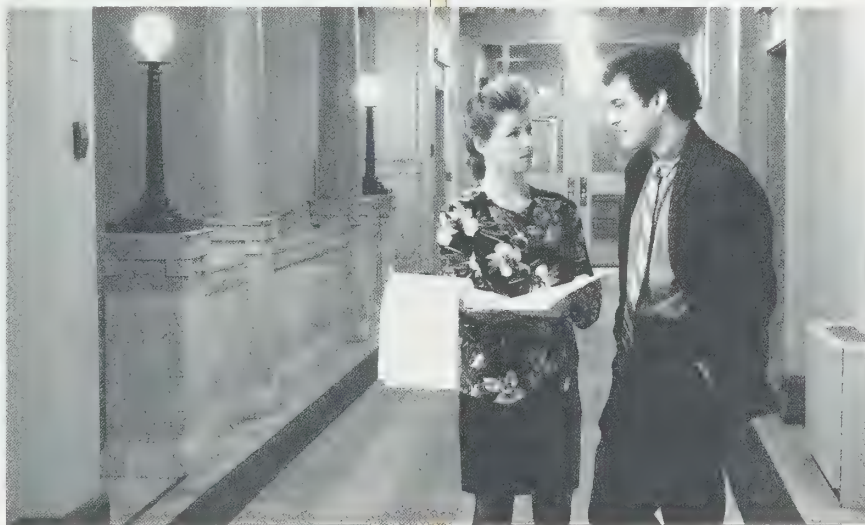
THE OMBUDSMAN AND THE LEGISLATURE

In passing the *Ombudsman Act*, the Legislature has taken measures to protect the Ombudsman from inappropriate pressures which a government might apply. Much still needs to be done to reinforce the view that the Ombudsman is completely independent of the public service and is a non-partisan long-term appointee. Her budget is

approved by the Legislature's Board of Internal Economy, not set out by the government as is the case with ministries and agencies.

The post of Ombudsman originated in another system, and its grafting onto modern parliamentary government does not always make it clear exactly what its working relationships are to be. In actual fact, the Ombudsman is a Legislative Official whose role is to assist the people of the province to resolve concerns and issues and to help government respond to new standards of fairness.

Although the Ombudsman has no power to enforce her recommendations, she does have the power to present the Legislature



with a Report when a governmental organization refuses to implement her recommendations. To facilitate the Legislature's consideration of such a report, a Standing Committee on the Ombudsman has been established.

It should be noted that for the second straight year, it has not been necessary for me to seek the intervention of the Legislative Assembly in order to have any of my recommendations implemented.

I have appeared several times this year before the Standing Committee on the Ombudsman. I continue to discuss with the Com-

and with other interested persons and groups.

I am pleased to note the improved communication between my office and Members of the Legislature and their assistants. I have noted an increase in referrals of constituents to my services. My staff has also been able to provide constituency assistants with answers to questions raised by constituents about my procedures. In order to develop a more useful working relationship with Members of the Legislative Assembly, senior members of my staff have conducted a series of workshops for constituency assistants, and are available to do more.



mittee our respective roles. I have emphasized the unique functions of my Office as set out in the Ombudsman Act, the breadth of their scope, the far-reaching powers provided, and the fact that the Ombudsman is a place of last resort. I have also appeared before the Standing Committee on the Legislative Assembly and the Committee on Ontario in Confederation.

In one appearance before the Standing Committee on the Ombudsman, I was asked for my opinions on the jurisdiction of the Ombudsman. My statement on this matter is in Part III of this Report. I look forward to discussions on this subject with the Committee

[THE TITLE OF "OMBUDSMAN"]

For well over a century, the only word which described the unique mandate of the Ombudsman was the word "Ombudsman" itself. There were no synonyms. When the Ontario Legislative Assembly wished to establish this position, it adopted the word then in use, and it alone has the power to change it. While that may have been acceptable in the 1970s, today, however, it is frequently brought to

my attention that the word has a sexist connotation. Whether in the original Swedish, the “-man” portion of “Ombudsman” applies to the office holder or to the population represented, the English language connotation implies a male-only domain. I have received many commentaries that the title should go the way of “chairman”, “workman”, “foreman”, as well as concern that “Ombudsperson” is an unsatisfactory substitute. It is suggested that the title should be easy to understand and easy to pronounce.

While “Ombudsman” remains in use in many countries and is found in the “International Ombudsman Institute” with headquarters in Canada, other jurisdictions have “Parliamentary Commissioners” (Denmark, Finland), “Public Protector” (Quebec), “Public Counsel” (Nebraska), “Commissioner for Complaints” (Northern Ireland). None seem completely satisfactory. Perhaps if wider creative thought is given to the matter, a title would be invented which would be considered appropriate to the Ontario of the 21st Century.

[HUMAN RESOURCES]

While as Ombudsman, I take sole responsibility for my decisions, I am supported in the fulfilment of my mandate by a staff which combines sensitivity and courage with knowledge and skills in a wide variety of disciplines and backgrounds. I have in-house and independent legal counsel. It is also important that my staff be from many community sectors so as to be representative of the people of Ontario.

Realizing that a productive, expert, conscientious, sensitive staff is my most important resource and the key to implementing the Mission Statement, I have moved away from “personnel administration” to providing a wide variety of pro-active human resource services. I want my staff to be in a congenial and efficient work environment which provides equality, equity, respect, freedom from discrimination and harassment, opportunities for growth and development. I continue to emphasize professional human resources management to ensure staff has timely, accurate, and candid information and that their feedback is encouraged, heard, and valued.

I have sponsored a number of staff-training programs. A three-phase course in cultural sensitivity training was provided. Training in non-adversarial methods of resolving conflict has also assisted staff in developing better teamwork and cooperation and in expanding options in their casework.

By providing in-house training, seminars which raise consciousness about new issues and new attitudes, and evaluation for existing staff and by bringing in fresh staff with a variety of different skills, ideas, and approaches, I continue to develop a staff committed to implementing the Mission Statement fully, energetically, and enthusiastically.

As I mentioned at the beginning of my Message, I appreciate the heavy burden which has been placed on staff in adjusting to a new Ombudsman with a new mission statement and a new approach: perceptions of the job to be done are changed, new standards are met, attitudes are changed. The public has very high expectations of the Ombudsman's staff: they look for commitment, perseverance, and dedication which goes beyond ordinary working arrangements. Our joint goal is to ensure that the public's expectations are met and that the Ombudsman organization achieves the high quality which positions it as a model of service.

[EFFICIENCY IN RESOLVING ISSUES]

The Mission Statement promised that my services would be rendered in a timely, cost-efficient, and effective manner. Delay by a governmental organization is a principal cause of complaint, and I must be certain no unnecessary delays exist in my own operations. Progress has been made in this respect. I have established a maximum two-month recorded contact rule, meaning that both complainant and governmental organization are kept informed at least within two months, preferably far sooner, about the progress of an investigation which goes beyond that time period. Regular case file reviews are held every six weeks to determine if a case is moving along as rapidly as possible.

Emphasis has been given to early resolution of concerns. Successful early resolution techniques are less expensive than extensive investigations, and both client and governmental organization have the benefit of a quick resolution.

I commend the Ministry of Correctional Services and most of the organizations for which it is responsible for the vast improvement I have noted in its cooperation in resolving issues and complaints I have brought to its attention. Response time in replying to my letters has been reduced; replies are more comprehensive; a willingness is shown to consider alternatives and to go beyond the complaint at hand to develop a long-term solution to the problem which caused it; there is an appreciation for the value to its operations which preventative Ombudsmanship can offer. Efforts in these directions by the Ontario Parole Board and the Ministry of Housing are also to be commended.

I urge the Health Disciplines Board, the Ministry of Health, the Ministry of Financial Institutions and particularly the Ministry of the Environment and the Ontario Human Rights Commission to work toward improving their respective abilities to cooperate in finding prompt and satisfactory resolution to the complaints and issues brought to their attention.

[PREVENTATIVE OMBUDSMANSHIP]

From the beginning of my tenure, I have engaged in “preventive Ombudsmanship”. I believe the public is well served when the individual concerns they bring to me for resolution lead to changes which benefit many others.

One aspect of preventative Ombudsmanship is sharing my experience and expertise with governmental organizations as to how they may bring their procedures and regulations to the standard of democratic administration that the people of Ontario expect.

Many of the matters which the public complains about in government are those human failings which can be found wherever human activity exists: indifference, insensitivity, negligence, arbitrariness. When these ordinary failings are combined with state power and bureaucracy, they may be magnified so as to encroach on a person's rights and sensitivities. The Ombudsman provides the public with protection against these inherent defects. However, the Ombudsman need not wait until damage has been done – by acting as a vigilant monitor, by calling attention to problems where problems emerge, and by assisting governmental organizations to understand the standards to which the public holds them accountable, the Ombudsman engages in preventative action.

Wherever possible, I look for a resolution of a complaint which will also ensure that the problem doesn't happen again. Recommendations most often go beyond an individual case. While persons are raising issues which affect them personally, the same issues have the potential to affect a great number of persons if not corrected. This means the nature of investigations is changing. More frequently, my staff sits down to discuss with officials the practices, procedures, policies and problems which have contributed to the complaint to determine the best way of remedying the root cause of the situation. I commend the increased sharing of information which this approach is generating. This sort of cooperation flourishes best in the absence of an adversarial and hostile atmosphere.

There may be those who are disappointed that resolution of issues means less public criticism of government by the Ombudsman in these Annual Reports. Unless there are specific reasons to do so, there is no need for the Ombudsman to embarrass organizations or highlight maladministration when it is corrected with diligence and not repeated. Indeed, this could be counterproductive to the good working relationship which makes my work more effective. It is only where the government fails to heed the measured findings and recommendations of the Ombudsman that it becomes necessary for the Ombudsman to table a Report with the Legislature for public action.

A FEDERAL OMBUDSMAN

I have joined with several of my provincial colleagues in discussions regarding the establishment of a federal Ombudsman. There is consensus that a federal Ombudsman is badly needed. Subject areas which give rise to numerous inquiries are Unemployment Insurance, Canada Pension Plan, federal income tax, federal health matters, First Nations, aboriginal issues in general, and bankruptcy.

Our discussions have focused on using our expertise and experience to formulate a range of options which we consider would be appropriate and useful. With the demise of the Court Challenges Program which provided funding to pursue test cases, the need for an Ombudsman is even greater.

In 1990, the provincial Ombudsman informed the Prime Minister of Canada of their request that the federal government, in conjunction with representatives of the native peoples, move to create the position of a Parliamentary Commissioner on Aboriginal Issues. That office would be responsible for assisting parties involved in conflict to reach a resolution, and if appropriate, to investigate complaints or problems and to provide a written report to Parliament.

As I move into the third year of my ten-year mandate, I see increasing appreciation for the role of the Ombudsman. Politicians and administrators see the Ombudsman process as a constructive way to respond to criticism, and the non-adversarial conflict resolution processes as a valid means of dealing with just complaints.

The Ombudsman was created by the Legislature to ensure that all governmental administration is in accord with public policy objectives and measures up to the highest standards. The Ombudsman provides an opportunity to verify that the social contract between government and governed operates fairly and within the law, an opportunity to monitor the government's duty to comply with its obligation of accountability to the people.



This year, I have endeavoured to meet the challenges without any substantial increase in resources since I wished to do my part in holding expenses under control in difficult economic times, and because I am not yet satisfied I have achieved every possible internal efficiency. The capacity of these economies to meet increased demands is rapidly reaching its limit.

Although the newness of being Ombudsman has long since worn off, I continue to be constantly impressed by the honour and obligation I have been given to make the Ombudsman of Ontario a state-of-the-art operation. I continue to regard it as an elegant instrument for improving democracy and to create a culture which demands and contributes to a high standard of public administration for all people of the province.

Roberta Jamieson
Ombudsman of Ontario

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**SELECTED
CASE STUDIES
ILLUSTRATING
THE
OMBUDSMAN'S
WORK AND
REASONS FOR
COMPLAINT**

Each person who comes to the Ombudsman for assistance can expect to receive individual attention. There are too many cases for each one to be summarized in the Annual Report. The summaries which follow, however, have been selected because they are illustrative in describing the sort of matters brought to the Ombudsman and how the Ombudsman does her work.

The name of the governmental organization involved in a case is not identified unless it is necessary for the summary to make sense, or where it is obvious which organization is involved, the name of the organization is given. Each of the cases described in this section were closed during this fiscal year.

For this year, in order of frequency, the most common fairness issues people raise in their complaints to the Ombudsman:

1

**wrong or unreasonable interpretation
of information and evidence;**

2

**wrong or unreasonable interpretation of criteria,
standards, guidelines, regulations, laws, etc.**

3

unreasonable delay;

4

**failure to adhere to its own processes, guidelines
and policies, or to apply them in a consistent manner;**

5

an inadequate or improper investigation was conducted;

6

failure to keep a proper record;

7

failure to provide sufficient or proper notice;

8

**a decision or policy has an adverse impact
or discriminatory consequence for an individual;**

9

**misleading or wrong information is provided
to an individual which consequently placed the person
at some disadvantage;**

10

**failure to monitor or manage
an agency for which it has responsibility;**

11

insufficient reasons for decision or no reasons given;

12

improper conduct or mismanagement by an official.

1

*Wrong or unreasonable interpretation
of information and evidence*

At times, a governmental organization may agree to correct an inaccuracy which the Ombudsman brings to its attention, making a formal investigation unnecessary.

Mr. Q is a commercial fisherman operating in the Lake Huron Basin area. He complained to the Ombudsman that the whitefish allocation given to him by the Ministry of Natural Resources had been miscalculated, making his annual quota 10,000 pounds less than he thought it should be.

The Ombudsman discussed the matter with the Ministry. She found the Ministry's quota was based on average catch in the licensed area between 1977 and 1982. The Ministry recalculated Mr. Q's allotment and found that indeed an error had been made, although it was less than the 10,000 pounds Mr. Q had calculated. To compensate, however, the Ministry agreed to increase Mr. Q's 1991 allotment by 10,000 pounds.

The Ombudsman may help to remedy an injustice caused by miscalculations of a governmental organization.

Mr. F called the Ombudsman from the detention centre where he was held to complain that his release was scheduled for one month past the time he believed he should have been released.

Calculating Mr. F's release date was complicated. He had been released on bail pending appeal after serving 17 days of a 15 month sentence. The appeal court reduced the sentence to ten months less the 17 days already served. He was rearrested, taken to court to vacate bail, and a new committal date was posted a month after his rearrest.

The Ombudsman called to make informal inquiries. Within 24 hours, the centre's records clerk called back to report Mr. F was basically correct in his calculation, and he would be so informed.

The Ombudsman's investigations may cause a tribunal to agree to hold a new hearing.

When Mr. W disagreed with the conclusion of the Workers' Compensation Appeals Tribunal that a shoulder disability was not related to a work-related accident, he asked the Ombudsman to investigate.

The Ombudsman obtained clarification of medical opinions, and discovered other information which was on record. This was considered by the Tribunal as new evidence and it agreed to hold a new hearing on the case.

As a result
of the
Ombudsman's
investigations
and findings,
amendments
to legislation
may be
proposed.

Mr. W objected to a decision of the Rent Review Hearings Board concerning his application for a rent increase on a property he owned. He also complained that the Board's subsequent

refusal to reconsider its decision was unreasonable. He asked the Ombudsman to investigate.

The Ombudsman found that, while the Board had the legal discretion to reconsider its decision when it believed a "serious error" had been made, the Board did not believe this was the case with respect to Mr. W's hearing. She found that the onus was on the applicant to provide sufficient evidence in support of his application. Since Mr. W had not submitted clear and detailed evidence to permit the Board to determine what maintenance expenses he had incurred, the Board could not be held to be unreasonable in the decision it reached, nor could it be said to have committed a "serious error" which would allow it to reconsider.

However, the Ombudsman recommended the Board develop guidelines which would set out the meaning of "serious error" so the Board and the public alike could understand the criteria to be met. She also suggested that the legislation be examined with a view to providing that someone other than the person who made the original decision be the one to determine whether or not a "serious error" had been made. Otherwise, there might be an apprehension that the person making the original decision would be biased.

In response to the recommendations, the Board developed and published appropriate guidelines. Amendments to the legislation were drafted to provide for an independent finding as to whether a decision would be reconsidered.

2

Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, etc.

What may seem a minor matter to a governmental organization may be of major importance to an individual – the Ombudsman can sometimes bring quick action.

Ms. P's son receives a disability allowance. He had an opportunity to work for two summer months and he earned \$480. She informed the Ministry of the income, but she believed the amount deducted from her son's allowance was excessive. She went to the Ministry's district office but had no success in resolving the issue. She asked the Ombudsman for help to get the matter cleared up.

The Ombudsman made informal inquiries and the Ministry agreed the amount deducted was excessive, and agreed to a prompt reimbursement.

The Ombudsman's involvement may sometimes result in a Ministry changing the way in which it interpreted and administered legislation.

Mr. Z complained that he had been held down by correctional officers in his cell and injected with a tranquillizer by the institutional psychiatrist.

The Ombudsman's investigation led to discussions with Ministry officials. The implications of a recent Ontario Court of Appeal decision concerning the use of chemical restraints against a patient's will was considered. The Ministry agreed to prohibit the use of chemical restraints on inmates.

Sometimes the Ombudsman's intervention can cause a governmental organization to make reasonable changes in procedure.

As an employer, Dr. P pays premiums to the Employer Health Tax Plan administered by the Ministry of Revenue. He asked the Ombudsman to look into the Ministry's practice of sending out billing statements only 15 days prior to due-date. The bill stipulated the payment must be accompanied by the top portion of the statement. He felt this was unreasonable, since too little time was left after receipt of the bill to make the payment on time.

The Ombudsman discussed this concern with the Ministry. It advised Dr. P that he could submit his remittance in advance without the top portion of the statement as long as all pertinent information was provided.

In some cases, the Ombudsman must look to the intent of legislation to determine if it is being applied justly – even though technically, the law is being followed.

The B family made plans to immigrate from Germany to bring back to life a derelict farm property in Eastern Ontario. Because they had not yet immigrated at the time of purchase, they had to pay the land transfer tax at the non-resident rate amounting to some \$23,000. They applied for and received a deferral of the rate on the condition they would take up residency in Ontario within a specific time period.

Unfortunately, the B family could not meet the deadline: their initial application to immigrate to Canada was rejected by federal immigration officials; the sale of their German assets moved slowly, and they needed the funds to finance the farm operation. Finally, their eldest son did not complete his two-year agricultural apprenticeship program before the Ministry's deadline passed. The deadline passed six months before the B family arrived on their new farm – and the Ministry refused to allow the refund of the non-resident tax. They asked the Ombudsman for help.

The Ombudsman investigated, and was able to provide proof to the Ministry that the B's had missed the deadline because of factors beyond their control. Furthermore, she pointed out to the Ministry that the intent of the Land Transfer Tax was to protect Ontario's agricultural land by preventing non-residents from speculating in land. Finally, the Ombudsman presented facts to the Ministry demonstrating the B family were bona fide farmers who had taken a derelict property, added to its value, and established a viable farm operation.

As a result of the information provided by the Ombudsman, the Ministry reconsidered its decision, and recommended to the

Lieutenant-Governor that a remission of tax, together with applicable interest, be granted to them.

Small businesses as well as individuals can and do ask the Ombudsman for assistance.

The A&A Moving Company moved the household goods for a public servant who had been transferred. It seems some boxes were lost in the process, and the Ministry involved was unwilling to pay the moving bill until the claim for the loss had been settled.

As a result of the Ombudsman's inquiries, the Ministry took an active part in facilitating resolution of the claim and the payment for the balance of the invoice was approved without delay. Of equal importance, the Ministry established clear guidelines with respect to cases such as these, providing for payment of interest for any invoice paid after the due date as a result of delays caused by a pending claim.

Resolution by the Ombudsman of one client's concern may result in policy improvements which will affect many more persons.

When their son required treatment for drug and alcohol dependency, the Zs took him to a U.S. facility. The Ontario Health Insurance Plan (OHIP) would not cover costs because the facility was not a "licensed hospital" as defined by law. The Zs appealed to the Health Services Appeal Board (HSAB), and a decision was handed down in their favour. However, OHIP still did not reimburse them. They asked the Ombudsman for assistance.

The Ombudsman investigated. She found that OHIP had erroneously held that the Zs had no statutory right of appeal. The Ministry of Health agreed that in the future it would ensure timely implementation of Health Services Appeal Board decisions, and that it would advise persons whose claims were denied that they could appeal to the HSAB. The Zs also received compensation for the delay in receiving payment of their award.



*Unreasonable delay.
When delays by a governmental organization
seem to be excessive, persons can
often find the Ombudsman to be of assistance.*

Example #1:

Ms. F contacted the Ombudsman because she believed the Public Trustee's office had unreasonably delayed releasing the assets of her late uncle's estate. The Public Trustee had apparently misplaced original notarial copies of the letters of administration which had been submitted by Ms. F's lawyer in October 1990. A second copy of the documents were provided in June, 1991.

The Ombudsman made informal enquiries. As a result, the Public Trustee's office immediately released the uncle's assets, and a cheque was sent to Ms. F's lawyer for \$24,000.

Example #2:

Mr. N came to the Ombudsman because his son had been recommended for transfer from a maximum security psychiatric facility to another provincial psychiatric facility. However, the recommendation had been made two and half months earlier – and still no transfer.

Within a week after the Ombudsman contacted the facility's administrator, Mr. N's son was transferred.

Example #3:

Mr. E injured his back at work and applied for Workers' Compensation benefits. The claim was approved, and Mr. E had to travel to Toronto three times to undergo surgery and for later treatment. He had submitted claims for reimbursement of his travel expenses to the Workers' Compensation Board for three months – but nearly a year later, no payment had been received.

Mr. E asked the Ombudsman for assistance for what he considered to be an unreasonable delay. As a result of the Ombudsman's informal enquiries, the Board decided to allow the travel entitlements, and a cheque for \$696 was issued.

Often the Ombudsman is asked for help because excessive delay on the part of a governmental organization is causing severe hardship. Sometimes other problems of administrative unfairness complicate the matter.

Ms. V is a high school student who is attempting to finish high school, even though she has been forced to leave her family home in a small Ontario town. She applied for social assistance in September, 1991, but her application was refused. She appealed the decision to the Social Assistance Review Board, and applied for interim assistance on September 16.

The Board received a reply from the municipality involved on October 10, at which time it was advised that an appeal was premature in that it had not yet reached a final decision on the September application because it considered the information provided to be incomplete. The Board then advised Ms. V that her request for a hearing and interim assistance was premature, and that her file had been closed. No opportunity was given for her to contest the decision, nor to set forth her position that she had provided all required information to the municipality.

Ms. V contacted a community legal aid clinic which in turn contacted the Ombudsman, contending the Board's decision not to provide interim assistance was unreasonable. She also reapplied for social assistance for the month of October, and her application was again denied.

Ms. V then applied a second time for interim assistance, but the Board did not respond until December 9. Even though the Board had then granted her interim assistance until such time as the hearing for her appeal had been scheduled, she considered the delay in reaching this decision to be excessive.

As the result of a series of inquiries, on January 13 the Board advised the Ombudsman that its October 10 decision was considered to be erroneous because it failed to be administratively fair. It said the municipality would be ordered to provide Ms. V with the interim assistance from September 16 to October 15.

A person with a disability asked the Ombudsman for assistance in speeding up the processing of his application for a special parking permit.

When Mr. U became disabled by severe arthritis, he applied for a special parking permit issued by the Ministry of Transportation for persons with disabilities. He was advised it would take two to three months for his application to be processed. He considered this to be unreasonable, and he asked the Ombudsman for assistance.

The Ombudsman contacted the Ministry. It agreed to issue within a week a temporary parking permit which would be valid until a permanent permit could be issued.

When the Ombudsman finds a pattern to complaints about a particular governmental organization, she can initiate her own study to look at the root of the problem.

The Registrar General Branch of the Ministry of Consumer and Commercial Relations is responsible for recording all vital events that occur in Ontario – name changes, births, marriages, deaths, etc.

In March, 1991, the Registrar General moved its main centre of operations to Thunder Bay. Although a public service counter remained open in Toronto, not all of the services were offered there.

The Ombudsman made inquiries regarding a number of cases. With the cooperation of the Registrar General, many issues were resolved. In view of the number of complaints received by the Ombudsman, she initiated a study of the level of service being provided. The Ombudsman continues to monitor the situation.

In one case, a bride and groom who wished to marry before the required three days had passed after obtaining a marriage licence waited anxiously at the altar for four hours while their minister tried unsuccessfully to obtain a waiver number. In desperation, the minister contacted the Ombudsman, who resolved the matter immediately – and the wedding ceremony proceeded.

In another case, the Ombudsman assisted a social worker to obtain without delay a birth certificate for an elderly patient who could not be released into the community because he had no income. With the birth certificate, the social worker was able to assist in the application for Old Age Security and other benefits.

One other example: a Vancouver couple graduating from an American university were concerned that they might not be able to cross the border to attend the ceremony because their daughter's long-awaited birth certificate had not arrived from the Registrar General. They asked the Ombudsman for assistance. The Registrar General agreed to send the certificate by courier, and the family attended the graduation ceremony.

When just the complications of life create difficulties in coping with government procedures, the Ombudsman can sometimes make the going easier.

The E family had been in another city while Mr. E took a training course. Although they had saved up money for their return to their home town, when the time came, the family encountered a long string of bad luck which left them in dire financial straits. Unable to find affordable housing, they took up residence in a one-room motel unit. They called the Ombudsman because they felt it was unreasonable they could not get subsidized housing since their name had been on a waiting list for two years.

The Ombudsman's investigation revealed the E family had been referred to another agency for placement in a four-bedroom unit, but the agency did not have the family's address or any information about their current circumstances. Within a very short time after this information was provided, the family was offered suitable subsidized housing.

4

Failure to adhere to its own processes, guidelines and policies, or to apply them in a consistent manner

When personal circumstances and administrative decisions combine to make a situation untenable, sometimes the Ombudsman can encourage a governmental organization to provide significant cooperation.

Ms. L came to one of the Ombudsman's district offices when the Housing Authority initiated eviction proceedings against her because of rent arrears. It seems that Mr. L had recently left the home.

Ms. L believed the eviction was unfair, since she had tried to apply to the Housing Authority for housing for herself and her three children under the Special Priority Policy for Assaulted Women. She also felt the Housing Authority's failure to take into account her current circumstances and its refusal to enter into a lease agreement with her alone was unreasonable.

The Ombudsman intervened, and the Housing Authority agreed to stay the eviction. After further discussions with the Authority and the Ontario Housing Corporation, Ms. L was granted a lease in her own name.

The Ombudsman can sometimes encourage a governmental organization to use its power to resolve an issue.

Ms. A, the owner of a small apartment complex, was frustrated with the lack of progress in negotiations with the company which had contaminated the well which provided water to the tenants in her building. The water quality had deteriorated to the extent that the apartment building could not be rented for a considerable time. Although the company accepted responsibility for the contamination, it differed with Ms. A with regard to the best method of remedying the situation and the amount of compensation to be paid to the owner. Ms. A was unable to find assistance in resolving the problem, and she called the Ombudsman.

The Ombudsman looked into the matter, and found that the Ministry of the Environment has responsibility for problems involving the contamination of water sources.

The Ombudsman convinced the Ministry that it should utilize legislation available to it to ensure the situation was corrected and

that adequate compensation was provided. When the company saw the Ministry was likely to proceed, it made a proposal which Ms. A considered satisfactory.

The Ombudsman's investigation may find that a governmental organization reached its decision properly.

Mr. Y was dissatisfied with a decision of the Rent Review Hearings Board to uphold an order of the Minister of Housing directing him to pay a rental rebate to his tenant for excess rent charged over a four-month period. He believed that since the tenant had signed a lease to pay a monthly rent of \$500, he should not have to pay a rent rebate.

After investigation, the Ombudsman found that the *Residential Rent Regulation Act, 1986* stipulates that the legal monthly rent applies despite any other agreement to the contrary. The Ombudsman informed Mr. Y that the Board was not unreasonable in upholding the Ministry's decision to award a rental rebate.

The Ombudsman's involvement can result in finding new options which form the basis for a negotiated settlement of the dispute.

Mr. S and Ms. R were employed at a Technology Centre which the government decided to close. They believed their settlement package did not reflect their circumstances when they were compared to other settlements.

The Ombudsman's investigation included a review of all settlement packages, and interviews were held with a number of the former staff. She found that although Ms. R was one of the first employees hired at the centre, she was given the same package as younger employees with less seniority.

Mr. S' circumstances were different. He contended he had not been properly advised that the Centre might not have a long life when he left a secure, long-standing position to take a job there. As he was approaching fifty years of age, he felt it would be difficult for him to find new employment at a senior level.

As a result of her findings, the Ombudsman recommended that settlements for both Mr. S and Ms. R be increased appropriately. The Ministry agreed to add an additional month's pay, with interest, to each settlement package. The Ombudsman considered this to be an adequate resolution.

While the Ombudsman does not take an advocacy role with respect to individual cases, she is an advocate for the highest possible standard of administrative fairness and can often bring about change in the way things are done.

In many correctional facilities, inmates are provided with "protective custody" to ensure their safety by keeping them separate from other inmates in the institution.

Three inmates in protective custody in one institution complained to the Ombudsman that they were required to be in the general inmate population at regular meal times in order to get their food. They felt this practice endangered their safety.

The Ombudsman brought the practice to the attention of the facility superintendent who acknowledged a problem existed. The practice was changed, providing a remedy not only for those inmates who complained, but for future protective custody inmates.

**The Ombudsman
may discover a
governmental organi-
zation has made
errors in application
of policy and/or
in the consideration
of evidence.**

Mr. S was convinced he was being unfairly denied eligibility to Workers' Compensation benefits with respect to a psychiatric disability. He maintained his conviction even though he had been turned down both by the Compensation Board and the Appeals Tribunal. He wanted the Ombudsman to look into the matter.

The Ombudsman reviewed the decisions and found errors in application of the Board's policies and in the Tribunal's consideration of various items of evidence. When the Tribunal considered the tentative recommendations of the Ombudsman, it ordered a new hearing to reconsider the matter.

Even an informal resolution of an individual's complaint can bring about wide-ranging remedial action which can benefit many others.

Mr. S expressed concerns that he and other inmates working as cleaners at a Correctional Centre were not being provided adequate protective equipment and safety training.

The Ombudsman initiated discussions with the Centre. Its administration agreed to put in place a training program for inmate cleaning crews. The Ombudsman is monitoring this commitment.

The Ombudsman's intervention can cause a governmental organization to re-examine its policies and procedures.

Ms. C contacted the Ombudsman on behalf of her father, who had recently vacated an apartment rented from the local Housing Authority. A carpet had been left behind on the understanding that if the new tenant was unwilling to buy it, the family would remove it. It seems that the Housing Authority did not advise the new tenant of this detail and a stalemate ensued.

There was another matter. During the family's efforts to obtain payment, it discovered the new tenant had moved into the apartment 15 days before the effective vacancy date, but Ms. C's father had not received any rebate.

After informal inquiries by the Ombudsman, the Housing Authority agreed to the rebate. It also agreed to clarify to the new tenant the matter of ownership of the carpet, and to facilitate negotiations regarding its purchase or removal. To prevent this sort of situation from harming tenants in the future, the Housing Authority altered its transfer forms to call attention to all its staff the issue of carpeting.

5

An Inadequate or Improper Investigation was Conducted

A complainant may ask the Ombudsman to investigate whether a governmental organization adequately dealt with an earlier complaint.

Mr. B contacted the Ombudsman, stating that the Ontario Human Rights Commission had not properly investigated his complaint that his employer had discriminated against him when he was fired because he had tested HIV positive.

The Ombudsman investigated all of Mr. B's contentions and found that not all of them could be fully supported. However, the Ombudsman found that certain matters raised had not been addressed by the Commission, and that in general, its investigation was inadequate. The Ombudsman also expressed concerns that the Commission had not met personally with Mr. B in the initial investigation.

When the Commission indicated it did not agree with the Ombudsman's conclusions, the Ombudsman issued her formal findings with recommendations that the Commission issue an apology to Mr. B. She also recommended that in recognition of Mr. B's loss of opportunity to come before a Board of Inquiry, the Commission pay him \$3,500 as partial compensation.

After a series of meetings the Commission issued an appropriate apology and offered to pay \$5,000 to an AIDS awareness agency of Mr. B's choice.

Although the Ombudsman does not cause a tribunal to change its decision, she may be able to recommend a new hearing be held.

Mr. T was employed by a mining company in northern Ontario for nearly forty years. At the outset of his employment, he worked underground laying track, using high-frequency vibratory tools. When he was diagnosed as having White Finger disease, he applied for Workers' Compensation. His application was denied, and his appeals to the Workers' Compensation Appeals Tribunal were rejected. He asked the Ombudsman for help.

The Ombudsman's investigation included obtaining further information from Mr. T's co-workers during the period in question, as well as having him examined and tested by a leading specialist in White Finger disease. The new information obtained during this investigation was provided to the Tribunal.

The Tribunal agreed to hold a new hearing before a new Panel.



Failure to Keep A Proper Record

Sometimes the Ombudsman can penetrate the impersonal world of computer-made decisions to restore fairness.

Computer Decisions Case #1:

Mr. U called the Ombudsman's district office in his area because his Workers' Compensation cheque had been withheld to cover an overpayment.

The Ombudsman investigated, and found that in fact, the worker had arranged for small monthly deductions to cover the overpayment. However, this information had been improperly entered into the Compensation Board's computer, resulting in the entire amount being deducted before the computer came upon the data that a repayment plan had been agreed to. As a result of the Ombudsman's intervention, a new cheque was issued for Mr. U to pick up the same day.

Computer Decisions Case #2:

Mr. J complained to the Ombudsman that after nearly three months of contract employment in northwestern Ontario with a governmental organization, he had yet to receive a regular pay cheque. Pay for overtime, promotion to a higher position, and other payroll problems were also at issue. He had been told the problem was the result of "computer glitches".

In discussions with the organization, the Ombudsman learned other employees were also affected by the same situation, caused by the inability of Toronto staff to log correct information in its payroll computer system. After five days, the Ombudsman was informed the problems had been corrected, and Mr. J would receive his regular cheque as scheduled.

In some cases, the Ombudsman can obtain resolution of an issue in a matter of hours.

Mr. T contacted the Ombudsman after learning his former spouse had not received her support payment from the Support and Custody Enforcement Office (SCEO), even though he had provided that office with a series of post-dated cheques.

The Ombudsman inquired, and as a result, SCEO staff searched

and located the misplaced cheque. The problem was resolved in less than three hours.

Sometimes the Ombudsman is called upon to investigate losses of personal property in provincial correctional facilities with a view to recovery or provision of compensation.

Example #1:

Mr. Y asked the Ombudsman for assistance when he found personal property missing after he was moved to another correctional facility.

When the Ombudsman asked the facility for comment, it replied that it accepted liability for the loss of the personal property. Mr. Y was satisfied with the compensation arrangement which was worked out.

Example #2:

Mr. A complained of missing property after a transfer, and asked the Ombudsman to investigate.

The Ombudsman found that the Ministry did not have a method of distinguishing between property given personally to an inmate on transfer, and that which was put into a property bag to be transferred to the new facility. The Ombudsman recommended that the Ministry develop a policy so this difference in custody of the property could be recorded. The Ministry accepted the recommendation.

Example #3:

Mr. R was transferred a number of times to and from three institutions. Each time, he was asked to sign a paper which he said he was not allowed to review. Later he discovered that at some point, a number of valuables had disappeared. When he complained, he was told the papers he had signed confirmed he had received his property in good order. Mr. R asked the Ombudsman for help.

After the Ministry conducted its own preliminary investigation, it acknowledged the losses and negotiated compensation. The Ministry's Investigation and Security Branch also opened an investigation into the question of the manner in which the receipts were presented and signed.

Example #4:

Mr. K was transferred from one jail to another in Metropolitan Toronto, but his identification, credit card, a gold ring and \$360 had remained behind. He called the Ombudsman. The Ombudsman's inquiry resulted in the missing property being promptly delivered to Mr. K's new facility.

The Ombudsman often can help to bring about a resolution to a long-standing disagreement with a governmental organization.

Ms. O, an employer, contacted the Ombudsman after years of problems and correspondence with the Workers' Compensation Board in an effort to resolve difficulties with her account. The Board admitted there had been "a collection of unfortunate errors and delays", and it agreed to reverse numerous charges and penalties incurred up to May, 1989. Ms. O paid the assessment, but she refused to pay the late payment charges which accrued between May 1989 and the present time. She felt any "late payment" was the result of the Board's own errors, and furthermore, that the amount assessed was inaccurate.

The Ombudsman entered into discussions with the Board. Although the Board continued to feel that the charges were justified, it agreed to withdraw them as a result of receiving accurate information pertaining to actual earnings for 1990.

The Ombudsman takes corrective action when governmental organizations fail to follow their own procedures.

When the Ontario Municipal Board approved the establishment of a home in Mr. L's neighbourhood for persons who had been psychiatric patients, Mr. L contacted the Ombudsman. He felt the Board had not considered what he felt were negative impacts of the home's presence.

The Ombudsman investigated, and found the Board had handled the matter correctly, and that its final decision was not unreasonable. She informed Mr. L she could not support his concern.

However, during the course of the investigation, the Ombudsman noted that the Board member conducting hearings had not reported in his decision or the hearing witness sheet the names of all of the witnesses who gave evidence. As a result, it could appear to the public that either witness testimony was being disregarded, or that witnesses were not being heard. In raising this matter with the Board, the Ombudsman noted that this could raise questions about the Board's fairness, and that legal challenges could be raised.

The Chair of the Board replied to the Ombudsman that he had informed Board members that they must accurately record the names of all witnesses so as to assist in ensuring that all witnesses at a hearing would be sent copies of the Board's decision.

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*Sometimes
nothing seems
to go right
with what
happens to be
a simple
matter,
and the
Ombudsman
is called to
get matters
straightened
out.*

.....

Example #1:

Mr. I always celebrated his birthday on July 4, but when he applied for a birth certificate from the Registrar General, it came back with July 7 as the date of birth. Mr. I researched hospital records, and sent the Registrar General photocopies of the documentation which proved he had been born July 4. He was told that if he would send back the inaccurate birth certificate, a new birth certificate would be provided at no cost.

Mr. I complied and indeed received a new certificate. However, it again had his birthdate as July 7. In frustration, he called the Ombudsman. The Ombudsman made inquiries, and a new and correct birth certificate was immediately forwarded to Mr. I.

Example #2:

Ms. G was refused a new driver's license because the Ministry of Transportation claimed her license was under suspension because of an outstanding claim against her since 1967. It seems her former spouse had been involved in an accident in that year in a vehicle registered in Ms. G's name.

The Ombudsman inquired, and determined there was no outstanding claim. However, it would take six weeks before this information would find its way into the Ministry's computer system to clear the way for the new license which Ms. G urgently needed. The Ombudsman inquired again, and Ms. G was able to obtain her license the next day.



Failure to provide
sufficient or proper notice

In many cases, the Ombudsman is asked for help when a governmental organization does not provide adequate notice to individuals affected by a decision.

Ms. Z missed a hearing held by a Ministry because she didn't know the hearing was to take place. She believed it unfair that she had not had the opportunity to present her point of view and to dispute the proposed action. She appealed to the Ombudsman for assistance.

The Ombudsman discovered that while the Ministry had advertised the hearing, the newspapers it had selected for its advertisement did not have general circulation in the community closest to the affected area. A widely-circulated weekly which carried public notices by local municipalities had not been used at all. Other

property owners in an adjacent township who also were affected by the outcome of the hearing had been served personally with a notice of the hearing.

When the Ministry considered the Ombudsman's preliminary findings, it agreed to provide Ms. Z with \$1,000 so she could obtain an expert opinion. The Ministry also agreed to reopen the matter if Ms. Z provided evidence that called its decision into question.

Part of administrative fairness is the provision of accurate and complete information regarding criteria used by governmental organizations to make decisions.

The Ombudsman was contacted by Mr. J, a representative of a non-profit organization in Northern Ontario because he believed the Lotteries Branch of the Ministry of Consumer and Commercial Relations had failed to advise the organization of the criteria used to process an application for a licence to have a raffle at an annual event, and to advise it in a timely fashion.

The application had been filed in April, but it was not until late July that the Lotteries Branch replied that the organization had not met the criteria for a licence to be granted. The annual event was only a month away, and there was no possibility then that the licence could be processed in time.

The Ombudsman made inquiries, explaining the circumstances, and suggested the revised application be reviewed as quickly as possible. The Lotteries Branch issued a licence the same day.

The Ombudsman was contacted when the decision of a Housing Authority rejecting an application was received when the deadline for appeals had almost passed.

When Mr. Y was making plans for his release from a correctional facility, he made application for housing to a Housing Authority. The Authority rejected his application, and advised him he could appeal the decision within ten days, using a form enclosed with the rejection notice.

The problem was that Mr. Y received the notice only three days before the appeal deadline, and even then, the form which he needed for the appeal had somehow not been enclosed with the notice. He asked the Ombudsman for assistance.

The Ombudsman contacted the Housing Authority, which agreed to waive the deadline. The required form was provided promptly.

8

A decision or policy has an adverse impact or discriminatory consequence for an individual

Sometimes a complaint results in a change of policy affecting similar situations, as well as being resolved satisfactorily for the individual involved.

A transsexual person in custody who was receiving hormonal treatment complained about body searches by male correctional officers.

The Ombudsman investigated and found that while the Ministry had made arrangements for transsexual persons to be placed in a protective environment, it had not developed appropriate policy or guidelines for staff conduct with respect to these persons.

The Ministry agreed to follow the Ombudsman's suggestion that appropriate arrangements be made for body searches of transsexual persons in its custody.

AMuslim inmate in a Northern Ontario jail called the Ombudsman because his diet did not permit him to comply with his religious beliefs.

Mr. P complained to the Ombudsman that the diet of the correctional facility where he was an inmate did not meet his religious requirements.

When the Ombudsman's officials discussed the matter with Ministry and institutional staff, they were informed that no suitable food items were available in the local community. However, when contacts were made with local hospitals and hotels as to how they handle requests for a diet which meets Muslim standards, they reported there was indeed at least one store which could meet these special dietary needs.

This information was passed to the Ministry which agreed to supply Mr. P with a diet which met the requirements of his religious beliefs.

The Ombudsman makes every effort to provide services in the language of choice – and sometimes the complaint concerns a governmental organization which did not do the same.

When Mr. O was placed on probation, he requested French language services. The probation officer decided that Mr. O could speak adequate English, and did not pursue Mr. O's request.

Unfortunately, Mr. O and the officer each had a different interpretation of the probation order – half of which was in English and half in French – and because of the language problem, Mr. O could not adequately explain his point of view. He called the Ombudsman, and in French, explained the problem.

The Ombudsman contacted the Probation Service's area manager, who looked into the situation. He reported that Mr. O was quite correct in his interpretation of the probation order, and that French language services would be arranged.

The Ombudsman's intervention may encourage a governmental organization to accept a solution to a problem which has been proposed by a client.

Three times someone using Ms. N's lost identification had obtained a driver's license in her name from the Ministry of Transportation. She wanted the Ministry to issue her a new licence number to prevent a reoccurrence of the problem, but the Ministry did not respond to her suggestion. She considered this to be unreasonable and she contacted the Ombudsman.

The Ombudsman wrote to the Ministry explaining the problem and setting out the proposed preventative measure. The Ministry agreed. Ms. N received a new licence number.

When an inmate's glasses had been confiscated, the Ombudsman was helpful in obtaining their return.

Mr. M complained to the Ombudsman that the prescription glasses he required had been confiscated and staff at the correctional facility where he was confined would not return them. He also was concerned that before the glasses were impounded, the frames had been broken accidentally while he was asleep and he did not have funds for the repairs.

The Ombudsman made informal inquiries with the medical unit at the institution. It reported that the glasses had been confiscated for Mr. M's own protection after he had been diagnosed as psychotic and was placed in segregated facilities.

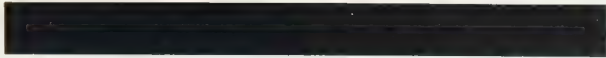
However, in reviewing the files, the medical staff discovered it had been determined Mr. M was no longer psychotic, and therefore there was no longer any reason to withhold the glasses. A health worker volunteered to retrieve the glasses and to have them repaired at no charge to Mr. M. Within two days, Mr. M had his glasses back.

The Ombudsman is able to look for natural justice as well as legal justice in determining if the action of a governmental organization was "unfair".

Mr. W was dismissed as an employee of a governmental organization. After losing all formal methods of appeal, he petitioned the courts to overturn his dismissal. The court expressed sympathy for Mr. W's situation, but it ruled it was not able to overturn the dismissal. Mr. W turned to the Ombudsman.

The Ombudsman's investigation revealed that the disciplinary action taken was much more severe than other actions taken both before and after the incident. She recommended the governmental organization institute a number of precautionary measures to ensure that a similar situation did not recur. She also recommended that Mr. W be provided compensation.

The governmental organization had already taken a number of measures to prevent Mr. W's situation from happening again, and it agreed to implement the recommendation regarding compensation.



The Ombudsman may look to the government's own policy statements to determine if a governmental organization has made a fair decision.

Mr. M is a person with quadriplegia who wanted to remain in the community. The Ministry of Community and Social Services was providing attendant care services through various service providers to support that decision, but there were constant administrative procedures for renewals and substantiation of need. Mr. M wanted the way cleared by having an Order in Council passed. When the Ministry denied his request, he went to the Ombudsman.

The Ombudsman's investigation found that the services offered Mr. M were inadequate and not in keeping with *Strategies for Change: Comprehensive Reform of Ontario's Long Term Care Services*, a policy statement which outlines the manner in which the government is committed to reforming long-term care services to people who are elderly and/or disabled.

The Ombudsman recommended that the Ministry devise a means to provide adequate attendant care to Mr. M on an on-going basis in a manner which was not administratively burdensome. The Ministry agreed to fulfill the Ombudsman's recommendation.

Although an Ombudsman may not be able to support a specific complaint, her intervention may lead to a policy change which remedies an unfair policy.

Ms. T felt a Housing Authority was unfair when it refused her request on medical grounds for a transfer from her one-room apartment to a one-bedroom apartment, and she asked the Ombudsman to investigate.

The Ombudsman's investigation did not substantiate Ms. T's need to have a larger apartment on medical grounds. The Ombudsman also found that the Housing Authority had reviewed Ms. T's case properly.

However, during the course of her investigation, the Ombudsman discovered a policy which permitted 60-year-old persons who do not live in public housing to qualify automatically for one-bedroom apartment units, while it demanded that persons reaching age 60 who were already in public housing prove medical need in order to obtain a larger unit. She informed the Housing Authority this policy was improperly discriminatory.

The Housing Authority agreed to change its policy so that persons who have reached 60 years of age could apply for a one-bedroom apartment regardless of medical need.

Sometimes the Ombudsman finds a governmental organization cannot resolve a problem because it is bound by agreements with third parties.

Mr. C wanted to purchase additional credit with a provincial government organization's pension plan to cover a period of prior employment. However, he was informed that his pension plan had a rule that all such purchases had to be for a minimum of one year, and Mr. C fell short by one month. He considered the restriction to be unreasonable, and asked the Ombudsman for assistance.

The Ombudsman's investigation disclosed that the rules were the product of negotiation between the government employer and the employees' union and therefore the governmental organization could not unilaterally change the rules for Mr. C's convenience.

The governmental organization agreed with the Ombudsman's suggestion that the inflexibility of the rule be discussed with the union with a view to revising it.

9

Misleading or Wrong Information is Provided to an Individual Which Consequently Places the Person at a Disadvantage

The Ombudsman can sometimes refer a person to an official who can assist in obtaining a prompt resolution of a problem.

When Mr. P changed his residence to a different neighbourhood, he was advised by the Public Utilities Commission that the hydro would not be turned on since money was owed by the previous tenant. He called the Ombudsman.

The Ombudsman's staff referred Mr. P to an advisor in the Ministry of Municipal Affairs. One hour after Mr. P made the contact he received a call back to advise him that the power had been restored at his new address.

Sometimes the Ombudsman can assist in having a government office implement a government policy which at the local level is unknown or is being disregarded.

Mr. K took a \$90 cheque written in the French language to a private issuing office of the Ministry of Transportation to renew his licence plates. He was advised that the cheque was not acceptable because it was written in French. He called the Ombudsman for assistance.

The Ombudsman contacted the Ministry directly. It immediately directed the error be corrected. The local office accepted the cheque and issued a written apology to Mr. K for the situation.

The Ombudsman may be called upon for assistance when the complexities of a situation involving a governmental organization seem just too much to be sorted out.

When Ms. H took the Emergency Medical Care Assistant Program at a community college, she completed all requirements except for failing to obtain a required English credit. She moved to another city, and there she obtained the required credit from

another college. This information was sent to the first college, which verified to the Ministry of Health that Ms. H had completed the Program.

However, when Ms. H applied to take the Ministry's exam for certification, she was told the Ministry had no proof she had completed the course, and she would have to wait six months for the next scheduled exam. To add to the confusion, on the day of the exam, Ms. H was contacted by the Ministry to find out why she had not shown up for testing! She asked the Ombudsman to assist, since she could not afford to miss employment opportunities during the six-month wait.

When the Ombudsman investigated, the Ministry said the confusion had arisen because the information received from the college had arrived by fax, and that authentic copies had not followed.

The Ministry admitted there had been some miscommunication and advised that a special exam would be scheduled for a small number of students whose extraordinary circumstances caused them to miss the regular exam. Ms. H wrote her exam a month later.

10

Failure to Monitor or Manage an Agency for Which a Governmental Organization has Responsibility

The Ombudsman sometimes helps to ensure that a governmental organization ensures that its delegated authority is properly carried out.

Mr. D completed both the practical and theoretical exams for the EMCA certification, but was then informed by the Ministry of Health that his exams could not be marked, released or appealed since when he took the exams, he had not completed the Ambulance and Emergency Care Program. It said the community college administering the exams had the responsibility to ensure those who took them were qualified to do so.

Mr. D considered this unfair, since the Ministry had accepted his application and exam fees and informed him he was ineligible only after he had taken the exams. The application form did not state candidates must successfully complete the Program prior to registration, and the Ministry contended dissemination of this information

was the college's responsibility.

It seems there were two problems which had kept Mr. D from completing the program. First, the college had refused to recognize Mr. D's 500 hours of paid field experience with an ambulance service and his 2,500 hours of paid work as a fulltime hospital attendant, maintaining that only volunteer experience would be considered as fulfilling a course requirement. Second, one required course, Legal and Ethical Issues, would not be offered until some later date because the Ministry had made changes resulting in a restructuring of the program.

After Mr. D contacted the Ombudsman for assistance in sorting out the problems, the Ombudsman engaged in many discussions with the Ministry. It eventually acknowledged that the College was essentially acting as its agent, and the Ministry remained responsible.

The Ministry agreed that in the future, both the College and the Ministry will clearly outline to all candidates that all prerequisites must be fulfilled before the exams can be written. The Ministry also rescheduled exams to early autumn to allow more time for processing applications.

As for Mr. D, his examinations were promptly marked and released, and he went to work as a full-time ambulance attendant.



**When it is not clear
which governmental
organization is responsible
for resolving a problem,
the Ombudsman
may bring attention to
the situation and
encourage an interim
solution until
the larger problem
is sorted out.**

Mr. D complained in 1988 that inmates taken to court for hearings were not receiving noon-time meals; the local municipality said that wasn't its responsibility. The Court administrator said it wasn't his responsibility. The Ministry of Correctional Services said it wasn't its responsibility.

In 1989, the predecessor of the current Ombudsman determined that the Ministry of the Attorney General was responsible for ensuring that inmates are provided with meals when they appear in court. However, no response was forthcoming from that Ministry. When a new Ombudsman was appointed, she formally sent her recommendations to the Ministry.

In 1992, the Ministry of the Attorney General reported that discussions are under way with six Ministries to determine who will have long-term responsibility. Until a decision is reached, the Ministry of the Attorney General has agreed to ensure that meals are provided to prisoners in court holding cells in locations where police forces will not pay for this service.



*Insufficient Reasons for Decision,
or No Reasons Given*

Often people are not aware of the manner in which decisions are reached; sometimes the Ombudsman can satisfy concerns by demonstrating that in fact a matter has received careful analysis and consideration.

Three retired employees of a large company complained to the Pension Commission of Ontario that the special retirement packages which each had been offered were inappropriately inconsistent with retirement packages offered to other persons. When the Commission reported there was nothing improper with the inconsistencies, they asked the Ombudsman to review the matter.

The Ombudsman investigated and found that the Commission's review had been thorough in determining that the company had followed the pre-established criteria for each pension package, and had no discretion as to which employees qualified. In fact, the Commission noted the company had enhanced the package to make the incentive to retire more attractive. The Commission could find no violation of pension legislation. The Ombudsman confirmed that the Commission had reported its findings to all concerned, and had given each party an opportunity to respond.

As a result of these findings, the Ombudsman concluded the Pension Commission had fulfilled the requirements of the legislation in arriving at its decision.

A principle of administrative fairness against which the Ombudsman measures an agency's action or omission is that persons have a right to be informed promptly of a decision which affects them and to be given sufficient reason as to why the decision was made.

A group of Ontarians interested in the environment requested a project be designated under the *Environmental Assessment Act* as the subject of a legally-mandated review. However, the Ministry of the Environment did not respond directly to the significant concerns which the group had raised. They asked the Ombudsman to assist them.

The Ombudsman investigated and provided her preliminary findings to the Ministry. The Ministry then apologized to the group for the manner in which it had responded to their letters. It also provided a more comprehensive explanation of the rationale which it had used in deciding to reject the group's request. Information was also provided that a number of government bodies had already conducted extensive reviews of the group's concerns.

12

Improper Personal Conduct or Mismanagement by an Official

It is not always necessary for the Ombudsman to investigate for a governmental organization to take remedial action.

Mr. T complained to the Ombudsman about personal and unprofessional comments he said had been made to him by staff at a correctional facility when he was admitted.

The Ombudsman brought Mr. T's concerns to the attention of the Deputy Superintendent of the facility, who undertook to use the complaint as an opportunity to remind all staff of the need to conduct themselves in a professional manner at all times. Staff were advised that personal and unprofessional comments were unacceptable and would not be tolerated.

The Deputy Superintendent acknowledged that in all likelihood, Mr. T's complaint was valid. Consequently, a letter of apology was sent to him, and he indicated satisfaction with the serious manner in which his concerns had been handled.

The Ombudsman can sometimes help resolve an issue which has been caused by poor communications or misunderstanding.

During her employment as a contract employee at a Ministry, Ms. U had received a satisfactory performance appraisal. When her contract expired, she applied for other jobs. Subsequently, she discovered that she had been denied a position on the basis of a reference given by her former supervisor at the Ministry. She asked the Ombudsman to look into the matter.

The Ombudsman's initial inquiries found that although the performance appraisal was satisfactory, it did contain comments which could be interpreted negatively.

The Ministry staff resolved the matter by providing a new more neutral written reference that the supervisor felt more closely matched her assessment of the worker. As a result of this cooperation, the matter was resolved promptly.

Sometimes during the course of the Ombudsman's inquiries or investigation, facts about an incident of administrative unfairness which is unrelated to the investigation at hand is discovered, and the Ombudsman's intervention results in appropriate action being taken.

During the course of looking into a complaint against a provincial correctional facility, a review of documentation showed that a Ministry supervisor recorded a racist remark on a report in an inmate's file.

The Ombudsman brought this matter to the attention of the facility's senior staff. As a result, the employee concerned was counselled and disciplined.

When Ms. L received the Ombudsman's assistance, officials took action to ensure an existing policy was correctly followed in the future.

Ms. L complained that she had been strip-searched by a female correctional officer when she was being processed for release. She believed such searches were done only upon entry, and she complained to the Ombudsman.

The Ombudsman's investigation found that the officer had not understood the correct procedures. A letter of apology was sent to Ms. L, and the facility instituted a new staff training program regarding the proper manner to deal with similar situations.

NON

The legislation giving the Ombudsman her mandate gives her investigative powers only with respect to matters involving provincial government organizations.

PROVINCIAL

However, often people call the Ombudsman about other categories of problems. It is the Ombudsman's policy that if she cannot help a person asking for her assistance, that person should be referred, if possible, to a place where help can be obtained.

INQUIRIES

Sometimes, the Ombudsman's staff can provide direct informal assistance. Examples of such situations follow.

—1—

Problems with the Gas Company

During an extreme cold snap, Ms. N called the Ombudsman in desperation because she had gone in person to the gas company to pay \$404 in arrears after service had been terminated, and the company said she would have to wait two or three days for service to be restored.

The Ombudsman's staff called the gas company to explain there were two children with the flu. The company explained it had been inundated with requests for restoration of service. The next morning, however, the company restored service to Ms. N's home.

—2—

Problems with UIC Benefits

Mr. H had applied for unemployment insurance benefits, and while waiting for his benefit cheque to arrive, he required general welfare emergency assistance. However, three weeks later, neither UIC benefits nor welfare had been received. Mr. H called the Ombudsman for help.

The Ombudsman's staff made informal inquiries to the local welfare office, and the same day, Mr. H was able to pick up an emergency cheque.

—3—

Problems of a Widowed Father

Mr. G had recently been widowed, and was having difficulties paying for necessary day care for his two young children while he attended a retraining program. He had unsuccessfully tried to find out what he needed to do to obtain assistance, and each week, his financial problems were mounting.

After Mr. G contacted the Ombudsman, her staff made several contacts which resulted in his children being admitted to a day care centre with costs subsidized so he could afford the program.

—4—

Problems with a Canada Pension

Ms. D said she was very depressed when she came to the Ombudsman's office – she didn't know who else to turn to. She had spent a few years in Italy, and on her return to Canada, she made a Canada Pension Plan application. Her efforts to reach the CPP office were unsuccessful.

The Ombudsman's staff managed to find the CPP worker in charge of Ms. D's file – she had thought Ms. D was still in Italy. She was provided with Ms. D's Ontario phone number and called her directly. The problem was resolved.

—5—

A Problem with a Hydro Company

Ms. V, a single mother, called the Ombudsman because for reason of non-payment of her account, her hydro supply had been cut-down to the point where neither her stove nor furnace would work. She had received no notice of this measure, since her former spouse had been intercepting her mail and she was unaware her account had not been paid.

Staff contacted the local hydro company, advising it of Ms. V's offer to pay \$100 in cash and to provide a post-dated cheque for the balance owing. The hydro company accepted the offer, and a crew restored full power the same afternoon.

II

SPECIAL INVESTIGATION:

The Ontario Human Rights Commission

Over the past several years, an increasing number of persons asked the Ombudsman to investigate what they considered to be excessive delay by the Ontario Human Rights Commission in dealing with their complaints of discrimination. The Ombudsman decided the problem could not be resolved on an individual basis and opened a comprehensive investigation.

The scope of the investigation included consideration of the Commission's general complaint-handling processes, and internal strategies for dealing with its backlog and case management problems.

Preliminary conclusions were reached by the Ombudsman in early 1990 that the Commission lacked the resources necessary to permit it to improve its ability to handle complaints in a timely manner; that the Commission had responded to recommendations of two management studies with ambivalence and even resistance, with the result that little progress has been made in implementing the recommendations; that despite reallocation of some resources, the delay problems ranging from twelve months to four years persisted, with the period between registration and service of complaints averaging 140 days. Because of these tentative findings and the possibility that the Ombudsman might support the complaints investigated, she asked the Commission if it wished to make representations.

On June 16, 1990, the Ombudsman met with the Chief Commissioner and the Commission's Executive Director. On the strength of representations that a new case management plan would address the outstanding problems and that a special task force was to deal with 200 of the most delayed cases, the Ombudsman agreed to monitor the Commission's progress until the end of 1990.

In October, 1990, the Commission was advised that additional persons had asked the Ombudsman to investigate their concerns about delay in the Commission's processing of their complaints.

The Commission was also advised the Ombudsman would extend the monitoring period until March 31, 1991.

The monitoring activities revealed that only six of the delayed cases had been closed. No further representations were made by the Commission to the Ombudsman. In the meantime, still more persons complained to the Ombudsman with respect to delays in the Commission's dealings with them.

The Commission was advised by the Ombudsman on March 14, 1991, that as a result of the monitoring, she had made tentative findings that the situation described by her a year earlier had not been improved appreciably. The Commission acknowledged that it was unlikely to meet the goals it has set for March 31, 1991, but that it felt its goals for 1992 could still be achieved.

On March 31, 1991, the Ombudsman made a tentative finding that excessive delay on the part of the Commission in commencing, conducting, and completing investigations of the 38 complaints was unreasonable. She found that the cases which had been brought to her attention were not atypical, and that they represented a pattern characteristic in many before the Commission. The Ombudsman also found that the initiatives which had been put in place by the Commission to address the problems of delay were inadequate. As a result, the Ombudsman concluded that the Commission was unable to enforce human rights adequately.

The Ombudsman also made a tentative finding that the Commission had been disturbingly unresponsive to her recommendations, and that the Commission's achievements were not sufficient to cause her to alter her tentative conclusions. She recommended that the Commission take immediate action to eradicate its backlog and rectify the inadequacies of its case handling procedures.

After these tentative findings were discussed with the Chief Commissioner as provided for in the *Ombudsman Act*, on May 3, 1991, the Ombudsman sent the final report of her findings and conclusions, together with recommendations, to the Chief Commissioner and to the Minister responsible for the Commission.

The Commission's response to the Ombudsman's recommendation was received June 3, 1991. In it, the Commission acknowledged that its inability to process complaints of discrimination without excessive delay equates to a failure in fulfilling an important part of its mandate. After careful consideration, the Ombudsman determined she was not satisfied with the Commission's response to her recommendations.

After a time for reconsideration and discussion had passed, the Ombudsman also determined to pursue the matter with the Premier, since the *Ombudsman Act* provides that before the Ombudsman can report to the Legislature on a matter, she must first give the Premier the opportunity to resolve it. The Premier was contacted on June 24, 1991.

Following a meeting between the Ombudsman and the Premier, the Government of Ontario agreed to take steps to respond to the Ombudsman's recommendations. Special measures to deal with the problem were taken, including increases in staff, development of improved case management procedures, and changes in the Board of Inquiry process. The Premier also agreed to review the *Ontario Human Rights Code* with a view to introducing legislation which would provide a more manageable system to enforce human rights. The Premier agreed to keep the Ombudsman informed of action and progress, and to make available monthly reports from the Commission.

The Ombudsman will review the matter in April, 1992, to determine the extent to which her further involvement is appropriate.

III

Statement on Jurisdiction

The Standing Committee on the Ombudsman has asked that I consider whether any changes in the jurisdiction of the Ombudsman are warranted. I promised to give the matter some thought, and to provide a written reply. I am also providing it as part of this Annual Report so that the matter can receive wide discussion.

The current restrictions placed on the Ombudsman's jurisdiction are few in number, limited in scope, and narrow in interpretation. The Ombudsman Act provides in s.14(1) that the function of the Ombudsman's mandate is "to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in "his/her" personal capacity."

Restrictions on the Ombudsman's jurisdiction preclude the investigation of:

- judges or the functions of any court;
- deliberations and proceedings of the Executive Council or any committee thereof;
- any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Hospitals, universities, Children's Aid Societies, and municipalities are not currently considered to be governmental organizations within the meaning of the Ombudsman Act.

The courts have given a broad interpretation to the jurisdiction of the Ombudsman to investigate acts and decisions "in the course of the administration of a governmental organization" and have ruled that the Ombudsman's powers should be broadly and liberally construed. The Act gives the Ombudsman the authority to apply to the Divisional Court for a declaration on issues if any question arises as to whether the Ombudsman has jurisdiction to investigate any case or class of cases and if the Ombudsman thinks it fit to do so. I therefore have the opportunity to clarify judicially any questions with respect to the current jurisdictional parameters.

Jurisdictional Variations Within Canada

The question of jurisdiction varies from province to province in Canada. The Ombudsman of Nova Scotia has jurisdiction over universities. Both New Brunswick and Nova Scotia have jurisdiction over municipalities and hospitals. All provincial Ombudsman except for Ontario and Quebec have jurisdiction over Children's Aid Societies or their equivalent.

In the Speech from the Throne by British Columbia's Lieutenant Governor on March 17, 1992, it was announced that the mandate of the province's Ombudsman would be expanded to

include actions by municipalities, regional districts, school boards, universities and hospitals.

The Committee on Institutions of the Quebec National Assembly recommended in November that the jurisdiction of the Public Protector be extended as a last recourse wherever there is reason to believe that in the exercise of an administrative function and employee of a school, school board, or one of its committees has violated the exercise or enjoyment of a right recognized by the Education Act. The Committee also recommended that the Public Protector Act be amended to permit the Public Protector to enter into agreements with the municipalities to enable them to voluntarily subject themselves to the jurisdiction of the Public Protector. Finally, it was recommended that the Public Protector be able to investigate the acts or omissions of any person to whom a governmental organization has entrusted the performance of duties assigned to it by law.

Gaps in Access to an Ombudsman

There are areas of jurisdiction which involve the provincial government to a certain point where there is no Ombudsman-like institution to investigate complaints of the public about unfairness. It is not always easy to clarify for the public why these gaps exist. As my predecessor pointed out to the Standing Committee on the Ombudsman in 1986:

"Why may the Ombudsman investigate a complaint from a student in a community college, but not from a student in a university?... Why may the Ombudsman investigate a complaint from a patient in a psychiatric facility operated by the province of Ontario, but not if that same patient suffering from the same psychiatric disability is in a psychiatric unit of a public hospital? Why may the Ombudsman investigate a denial of family benefits, but not a denial of general welfare assistance when both systems are totally funded by tax dollars and the guidelines and policies for both are essentially established by the provincial government?"

The principal jurisdictional areas for which no Ombudsman service exists follow.

1. Municipalities

In Ontario, the Ombudsman now has jurisdiction over the Ministry of Municipal Affairs and the Ontario Municipal Board, but not over municipalities. I received 1,677 inquiries and 375 complaints in this area in 1990-91 with respect to municipal organizations beyond my jurisdiction. They involve approvals of by-laws, lack of enforcement of by-laws, lack of services, inadequate services, etc. Municipalities offer such a wide variety of services and make so many substantial decisions that it is easy to understand many public concerns would arise naturally under the best of circumstances.

2. Social Assistance

I am frequently asked to provide assistance (131 complaints and many inquiries last year) with respect to municipally-administered General Welfare Assistance. This programme is primarily funded by the provincial government in a cost-sharing arrangement with the federal government. Municipalities bear a minor portion of the costs. The Ontario public does not now have Ombudsman services with respect to social assistance except in respect to appeals of decisions of the Social Assistance Review Board.

3. Education

The Ombudsman already has jurisdiction over matters relating to community colleges and the Ministry of Education. Education is a provincial responsibility and governed by provincial legislation. While funding is derived from a municipal tax base, there is also provincial funding. In essence, the responsibility is delegated to municipal, regional, and other boards of education. While school boards are funded by a municipal tax base, an individual has very little real recourse if there is dissatisfaction with actions or omissions of elected trustees and superintendents.

4. Children's Aid Societies

In essence, Children's Aid Societies act as agents for the province of Ontario in providing child welfare services. They are funded, regulated, and supervised by the provincial government. While some Society decisions involve court orders, the substantial majority of their work has no judicial or external review, despite the fact that their decisions have far-reaching effects on the lives of families and children. Questions of fairness, adequacy and appropriateness of conduct, reasonableness of decisions, fair processes, etc., are decided basically on trust in the Societies' good operations. The Ombudsman now receives many inquiries about Children's Aid Societies.

5. Public Hospitals

There are several hundred public hospitals in Ontario which employ well over a hundred thousand employees and serve over a million residents of Ontario each year. Because of the institutional nature of a hospital and the need for care of patients, there is fertile opportunity for issues and concerns to arise. The Ombudsman already has jurisdiction over provincial hospitals.

6. The Ontario New Home Warranty Program

Persons dissatisfied with the administration of the Ontario New Home Warranty Program must appeal any decisions to the Commercial Registration Appeal Tribunal before the Ombudsman can be satisfied that all avenues of appeal have been exhausted. While the Ombudsman does have jurisdiction over the Tribunal, the majority of the complaints received last year dealt with matters occurring long before an individual can reach the Tribunal, and relate to the long delays and frustrating process associated with the Program.

Options for Filling the Gaps

There are a variety of options which could be explored if a decision were made to cover one or more of these gaps. One option would be for the agencies involved to provide their own version of Ombudsman services. Given the expense of assembling the considerable expertise needed for the operation of an Ombudsman's neutral and independent processes, however, it is understandable why small agencies scattered all over the immense geography of Ontario might find it difficult to provide these services on an individual basis, although this remains an option.

A second option for dealing with these complaints is to provide a mandate to a Ministry to deal with the concerns of the public. There is also an interim option which might be considered without legislative change. An entity might enter an agreement with the Ombudsman to provide services, and to subject itself voluntarily to my jurisdiction. Perhaps some provincial assistance could be provided to subsidize the costs. If several entities were to agree to enter

into such an arrangement, it would provide practical experience which would enable all concerned to determine the usefulness of Ombudsman services entities of a similar nature.

If this experience proved beneficial, then the services of the Ombudsman could be extended more broadly. The advantage of province-wide service is that it ensures a uniform standard and style of service throughout Ontario, avoiding inappropriate comparisons and challenges. The option of using existing Ombudsman services in new jurisdictional areas could also be varied by combining it with aspects of options one and two, with the Ombudsman having residual authority.

From a fiscal point of view, it is usually more economical to add to an existing operation than to create a new one. However, it is difficult to estimate the additional resources which might be required by the Ombudsman if jurisdiction were extended to include one or more of the above-mentioned areas. Some resources are already expended at the intake level responding to inquiries about these areas, understanding the complaint, determining jurisdiction or the lack thereof, and providing some measure of assistance through referral. While it is clear that an increase would be required, further study would be needed to determine the amount with any degree of certainty. One possibility would be to provide a volume-related increment to the existing base of resources already assembled by the Ombudsman.

Whistleblowing and the Ombudsman

Concern has been expressed recently about "whistleblowing", i.e., the complaint of public servants regarding a serious problem encountered in the course of their duties which they feel the government is not handling properly. The Ombudsman already has the ability to investigate complaints made by employees of governmental organizations. However, the Ombudsman does not have substantial enforcement power to protect the whistleblower from any negative actions taken as a result of the complaint. The Act does provide for action against anyone who may obstruct the Ombudsman in her investigations, but she has no way to protect an employee's job. While she could reopen her investigation and address the reprisal issues, and while she could recommend compensation for an employee who had been fired, she could not order whistleblowers to be transferred to another job or to be reinstated in their positions.

In Israel, the Public Complaints Commissioner may make any orders he deems right and just to protect a public servant who has exposed problems. The order may revoke dismissal or award compensation. The Commissioner may order the transfer of the employee to another post. Orders of the Commissioner are binding on any superior of the employee and the employee.

The Ombudsman and Administrative Tribunals

It is understandable that there are few organizations which relish external review. Administrative tribunals are reviewed by courts, and even courts have limited their own review power. Accordingly, there have been expressions of concern about the autonomy of various administrative tribunals in Ontario vis a vis the Ombudsman. Some tribunals have argued that they are quasi-judicial bodies, and therefore should be excluded from the Ombudsman's jurisdiction. Notwithstanding these concerns, the courts have held that the current legislation permits the Ombudsman to investigate both substantive and procedural decisions of a tribunal or administrative agency. In these investigations, the Ombudsman is interested in

IV LEGISLATIVE ISSUES AFFECTING THE OMBUDSMAN

Problems with Respect to Freedom of Information and Protection of Privacy Act

On October 23, the Ombudsman appeared before the Legislative Review Committee on Freedom of Information and Protection of Privacy regarding what she believed was an inadvertent oversight which undermines the confidentiality of the Ombudsman's process and puts two Officers of the Legislature, each with very laudable mandates, at odds one with the other. The problem has been caused by lack of clarity in their legislated mandates with respect to the other.

The people of Ontario are able to come to the Ombudsman with complaints and issues with the assurance that the matter will be kept confidential. Without this assurance, many members of the public will not come forward with their complaints, and government agencies will resist disclosing information to the Ombudsman. So this assurance could be given, the protection given in the Ombudsman Act is very broad. Confidentiality is a vital hallmark of an Ombudsman's work. In fact, the Ombudsman Act prohibits the Ombudsman or her staff from disclosing information which is received in their official capacities. The requirement to maintain confidentiality is so complete that under section 25(a) of the Ombudsman Act, neither the Ombudsman nor her staff can be called to give evidence in a court hearing.

That kind of privileged relationship is essential if the office of Ombudsman is to have the highest possible credibility with the people of the Province. Confidentiality is particularly important because the Ombudsman has also been given extremely broad

determining whether a complainant was given the opportunity to present evidence, whether the decision reflects the evidence, whether fair procedure was followed, and so on. The Ombudsman has no power to overturn a decision.

The Ombudsman's ability to investigate administrative tribunals is an important measure toward ensuring that the quality of justice is upheld, that hearings are fair, that review mechanisms are effective, that procedures are in effect and are fair, that protections are adequate. Without the Ombudsman's involvement, those who could not afford to take legal action would have no alternative aside from courts for review as to whether a decision is unreasonable, unjust, oppressive, or improperly discriminatory.

The Annual Reports which I and my predecessors have tabled offer ample testimony that in Ontario there has been considerable call upon the Ombudsman to render services within the current bounds of jurisdiction. Those occasions have given many tribunals the opportunity to correct errors in individual cases and to make changes in policies and procedures which have provided greater fairness and efficiencies for future cases.

Judicial Opinion on Jurisdiction

In considering the limits of the Ombudsman's jurisdiction, it may be helpful to consider judicial opinion. When the Supreme Court of Canada had occasion to rule on sections of the British Columbia Ombudsman Act which set out the Ombudsman's jurisdiction, the Supreme Court said, "given their plain and ordinary meaning, (the sections) encompass virtually everything a governmental authority could do, or not do, that might aggrieve someone. It is difficult to conceive of conduct that could not be caught by those words... 'A matter of administration' encompasses everything done by government authorities in the implementation of government policy. I would exclude only the activities of the Legislature and the courts from the Ombudsman's scrutiny."

The Nova Scotia Court of Appeal has also broadly construed the Nova Scotia Ombudsman's jurisdiction: "The Act is surely concerned broadly with supervision of the performance of governmental functions in the broadest sense... We are concerned not with the administration of a law in a vacuum, but with how the department carries out its function of service, i.e., its impact on the public generally and on the aggrieved complainant in particular."

It is my hope that this information will be useful to the Committee and others in their considerations of jurisdiction for the Ombudsman of Ontario.

powers of investigation and an extremely broad mandate. With this in mind, broad confidentiality provisions become paramount.

The Information Commissioner was asked recently to determine whether the Ministry of Government Services should be required to disclose a document in its files which it had received from a previous Ombudsman, a document which he had relied upon in arriving at a tentative finding. The document had been provided to give the Ministry an opportunity to allow it to provide its comments, which is part of the usual process followed by the Ombudsman. Because the document contained some sensitive information, the Ombudsman of the day had expressly reminded the Ministry that documents provided to it must be kept confidential. Disclosure was sought some nine years later by a person who was not a party to the complaint, and who had not supplied information to the Ombudsman. The Commissioner released his decision in September, that according to terms of the existing legislation, the Ministry must disclose to the appellant certain portions of the Ombudsman's documents.

The Ombudsman considered it necessary to seek judicial review of this decision, considering the principle of privacy which is upheld by Ombudsman all over the world, and the power given to the Ombudsman in the Ombudsman Act to determine what information ought to be released.

In the meantime, the Ombudsman has been obliged to take extraordinary measures to ensure that information which she provides to governmental organizations remains confidential. No confirmation has yet been received from either the government or any member of the Legislature that amendments will be introduced to provide the Ombudsman with the ability to maintain the confidentiality required. The Committee reviewing the legislation declined comment since the matter is now under judicial review. Nonetheless, it remains open to the government to bring forward a Bill to address this problem.

V

From the OMBUDSMAN'S NOTEBOOK

*(The Ombudsman is frequently invited to speak
at Canadian and international meetings and congresses.
These are excerpts from her statements.)*

– Society of Professionals
Involved in Dispute Resolution
19th Annual International Congress,
San Diego, California – October 17, 1991

"...While governments traditionally have become involved in assisting others to resolve their differences, increasingly government finds itself as a party in disputes with private interests... Governments are in severe need of instruments and attitudes which will help them to deal with issues and resolve them rather than simply manage them.

"...Cold dollars-and-cents analysis can help governments see financial advantages in choosing non-adversarial resolution as opposed to relying on expensive use of the courts... We can, I believe, demonstrate that a non-adversarial approach to conflict resolution and the involvement of government as a willing party does not undermine democracy – rather it enriches it by providing a vehicle for the kind of participation which people all over the world are demanding.

"Preventative Ombudsmanship can help government explore new ways of resolving issues. My hope is that Governments everywhere will realize that social policy issues, environmental concerns, labour disputes involving public workers to name but a few are critical areas which cry out for consensus building efforts which might sustain themselves beyond the life of any one Government."

– International Congress
On The Experience of the Ombudsman,
Mexico City, November 13-15, 1991

"...I am sensitive to the special problems which indigenous peoples – especially those of the Americas – have with respect to commissions and omissions of governments, including those which the world judges to have high standards of democracy. Indigenous peoples often face problems arising from geographical and cultural isolation, problems of both overt and unconscious racism and

discrimination, problems of language, cultural misunderstandings, and lack of awareness of rights, responsibilities, and process...

"One of the phenomena which we see worldwide is the new resurgence in ethnic pride. The ability of a nation to survive is increasingly being measured by its ability to be pluricultural, plurilingual – not just in folkloric terms, but as measured by genuine participation in the country's body politic.

"As Miguel Leon Portilla has observed, the world is engaged in a process of globalization while simultaneously dealing with an energetic process of reaffirmation of identity.

"This is fundamentally a two-way redistribution of power. As comfortable national sovereignty gives way to larger unions through international agreements entered into for mutual advantage, our human nature causes us to look to our cultural and religious roots in seeking a human-scale grouping in which we can express our identity and receive community support. Where nation-states can gracefully incorporate plurality, the redistribution of power is likely to be peaceful. Where there is unfortunate coercion to maintain the status quo, the redistribution explodes into unfortunate violence.

"History and current events alike show that no country may think itself immune from this process. The human struggle for empowerment knows no borders...

"As Ombudsman, we have the opportunity to assist in the removal of barriers to that process so that all elements of a nation's population can become full participants in the struggle for human rights and well-being. No nation can afford to exclude precious human resources from its drive to become competitive in the global economy. As we strive to reduce trade protectionism which prevents economic equality, we must be sure that our internal cultural protectionism also comes under scrutiny or the better tomorrow we envision will never come to be.

"If indigenous people are ever to be accommodated, we have to find new ways, new institutions, to approach this challenge. We must understand we are developing partnerships – it is not good enough for one side to offer to open its doors to let the other side in. We should not be afraid to be creative and to engage in experiment..."

– Eastern Ontario
Municipal Conference,
Kingston, Ontario
October 3, 1991

"...I currently am receiving complaints about municipalities because the public brings them to me... I have to inform the people that I have no mandate in this area, although sometimes my staff is able to make a referral to some source of assistance.

"There are a variety of ways in Canada in which municipalities have Ombudsman services. In New Brunswick, municipal governments have been placed within the provincial Ombudsman's jurisdiction. The City of Winnipeg under a mandate to provide its residents with the services of an Ombudsman. One of the objectives for this move is to help residents develop methods of providing input into government, to help politicians and bureaucrats understand the value of receiving public input.

"There is the potential, of course, of a municipality having its own Ombudsman. Detroit, Michigan, took that route in 1974 at a time of great urban unrest as a measure to help restore the faith of the people in their municipal government.

"I would caution about the slippery slope of specialized

Ombudsman: it would mean the fire department would have its Ombudsman, the Health Department would have its Ombudsman, and so on.

"As well, although I do not own the word "Ombudsman" as if it were a registered trademark I would like to express my hope that any one termed an Ombudsman have the essential elements which historically have accompanied the title: they are independent of government with a long term of office; they report directly and publicly to the governing body, and they have investigative powers."

– "Choices" Career Resource Day,
Brantford, Ontario
April 19, 1991

"Our history books tend to concentrate their honour on the men who built Canada. The women are invisible – the women who cut wood and hauled water, who worked alongside their husband and children in the fields, the women whose labours at low wages added to the wealth of the nation, the women who sacrificed and sweated so their husbands could work outside the home – so many invisible women in the history of Canada who the country has yet to honour.

"Those sectors of Canadian society which have claimed sole ownership of the country for themselves have for years operated under a set of rules and assumptions which have guaranteed for themselves preferences and privileges. These preferences remain out of view to the degree that still today, their existence is often officially denied...

"Those who control and benefit from privilege may be genuinely bewildered by the fact that women seem to be continuing to be making demands.

"Their bewilderment comes largely from the fact that they have yet to come to terms with their own history, their own values and prejudices, with the sexism and racism and "able-bodyism" which is inherent in a system which has been built to protect all those "-isms".

"Until Canadians in general are able to transcend their history so they can face their future, they will find it nearly impossible to ensure that their institutions follow the values which they espouse."

– Annual Conference,
Association of Canadian College
and University Ombudsmen,
London, Ontario
June 16, 1991

"When we look at the changes which the people of the planet have had to accommodate in your own lifetime, we can see the increased potential for dispute. Instant communication, new perceptions and definition of rights, breakdown in traditional structures, failure of institutions to meet their *raison d'être*, increased mobility and immigration – dynamic tensions have resulted which require adjustment...

"To complicate matters, our traditional means of resolving disputes are also involved in adjustment and are under stress...

"Our task is to convert these new adversarial situations into opportunities for conflict resolution which establishes a foundation for new cooperation and synergy as energies are focused on improvement rather than winning.

"One does not need a crystal ball to see there will be a drama-

tic increase in the need for additional methods to resolve disputes in the decade ahead, a need which will become a demand as we come to recognize that reliance solely on adversarial law and politics is counterproductive to our own well-being.

"We have to find new ways not only to resolve disputes, but ways to reconcile all factions whose conflicts disrupt the peace of our global village... In businesses, in government, in communities, and in higher education, Canada must devise new institutions and processes which take into account the dynamics and the distinct nature of the issues of the day."

- Select Committee
On Ontario In Confederation,
Ontario Legislative Assembly
Toronto, Ontario
August 8, 1991

"I find it difficult to respond to the list of questions supplied by the Committee. To deal with the details without having shaped the vision will leave us where we are now: faced with iron-clad parameters which do not leave us room to adjust and evolve and mature.

"It would be peremptory, even exclusionary, to deal with detailed questions until we have a shared national vision for the future, a vision which dynamically opens up space as space is needed in the years to come, space for all Canadians, individually and in collectives, to achieve their personal hopes and dreams.

"I firmly believe that such questions can only be answered after we have established a framework for the future which is able to accommodate fundamental changes which we might now be able to anticipate only vaguely, if at all. Only if we have an expanding, flexible framework can we escape our current purgatory of nation-building through crisis management...

"How much nicer it would be if Canada were able to adopt a Constitution which represented broad consensus on the principles, values, relationships, and institutions which Canadians wish to have as a foundation for their governments and laws. Certainly imposed solutions cannot be expected to result in harmony and cooperation even if a referendum decides that is the way to proceed..."

"One obstacle is the failure of Canada to face up to a transition dictated by current reality: the transition from a country which for decades considered itself as a God-given kingdom to be peopled sea-to-sea by one people of one race and one culture and one religion to a nation which is multi-cultural, multi-linguistic, multi-racial and with a population holding to a multiplicity of religious practices.

"Another obstacle which mitigates against consensus is the general absence of predisposing attitudes to arrive at decisions by consensus-building as a means of achieving accommodation. We still tend to give in to an institutional urge to fight for victory rather than to achieve reconciliation.

"It is easy to see, then, in today's overwhelming and critical circumstances, in the vacuum cut between fiction and fact, that so many people are resorting to attitudes which make them feel comfortable and secure, but which all too often result in polarization and conflict and push those in less comfortable circumstances to further extremes.

"Most debate about the Constitution to date has been characterized by advocacy of special interests. There has been little room offered for compromise, little comfort for those who have conflicting special interests which are held equally dear.

"There are undoubtedly many reasons why Canadians...seem

to have become arbitrary and unilateral in their points of view. It seems to be the last stand of the mainstream, an effort to sustain a dream, a fantasy, of a British North America which has been overtaken by new realities and new values... We have arrived at this political High Noon because those who think of themselves as mainstream Canadians are unsure of the cultural platform on which their lives are based."

- Convocation,
University of Windsor,
Windsor, Ontario
June 8, 1991

"One of the results of the trend toward economic globalization is combined search for roots and identity, for equity and fair play. We see it in far-off lands as peoples shake off the nation-state to assert ancient national identities, to have something of meaning to wear in the marketplace of the global village.

"We find another interesting duality within ourselves. At the same time that we look inward to create space for ourselves in our own mind's eye, we also find ourselves engaged in a widespread quest to create space in a just Canada for those who have found themselves throughout history on the margins of participation...

"Deep within our hearts and souls more so than from using minds, we find the means to transcend any differences which could separate us from each other. It is there we find something that tells us that we are not 'minorities', we are not 'disadvantaged', we are not 'career women', but rather that we are all human beings asserting our right to express who we are without arbitrary restriction, our right to apply ourselves fully to meet our challenges and to make our contributions to the world.

"That is really our common ground, ground broad enough to incorporate not only the uniqueness which was given to us as peoples, but the uniqueness which we each have as individuals. Finding the means to express our personal uniqueness is not always easy - but we must do so if we are to make our unique contribution to our own time..."

- XVII Annual Congress,
International Society
for Intercultural Education,
Training and Research (SIETAR)
Banff Springs, Alberta
May 3, 1991

"It is in the context of reaffirmation of identity that I would like to address for just a moment those of us present who have not had the discomfort of finding themselves separated out from the mainstream as a 'visible minority', or as being among those who are expected to participate in 'Cultural Heritage Days', or as being one of 'our' aboriginal people..."

"From the dominant viewpoint, aboriginal peoples and visible minorities and persons of non-dominant cultures continue to be the 'white man's burden', seen as a sap, a drain, a brake on true progress, rather than as a source of power of great synergistic proportion. That is what more recent arrivals to Canada have to teach - the ability to nurture the cultural roots which are theirs by heritage, and yet to allow their lives to be shaped by the power of the land we call Canada..."

"If we intend to be helpful, we had better know who we are, for in knowing and respecting ourselves, we find the rationale and mandate to respect others.

"We must embrace intercultural synergy and harmony so tightly there will never be any going back.

"The future of the human race depends far more on this than on any material, scientific, or technological advance...

"We who enjoy the privilege of jet travel must extend our intercultural perspective to encompass the people of our own and other societies who know hunger and despair and poor health and who will never see the beauties of Banff. Differences of privilege and wealth and income create cultural differences perhaps even more stark than those created by language, heritage and place.

"The prejudices, the rationalizations, the exercise of power are as evident with regard to the cultures of poverty as they are with regard to race and culture.

"...We have skills and a responsibility to look for opportunities to create synergy, to build societies which include us all..."

**Western Judicial Education Centre
Conference on Aboriginal Issues
and Gender Bias,
Yellowknife, N.W.T.
June 28, 1991**

"While preserving the essential role which courts do and must play, we must not be afraid to explore ways in which parties at issue can creatively construct a solution which not only deals with the conflict in a way which reconciles competing interests but which also lays the foundation for a positive and mutually-beneficial relationship for the future.

"Surely if judges can interpret such visionary concepts as the Charter, judges can find ways to incorporate visionary methods of conflict resolution in their administration of justice.

"My role as Ombudsman of Ontario is one application of alternative conflict resolution which I regard as one of the most elegant innovations ever to be grafted on to modern democratic political systems.

"I am mandated to provide efficient, independent resolution of issues arising between individuals and their government by acting as a neutral, non-partisan intervenor empowered to determine whether governmental actions or inactions are fair or unfair.

"In classical terms, I provide non-binding arbitration through a process which is mandatory for the government, voluntary for the individual."

**- York University Faculty of Law,
Toronto, Ontario
February 11, 1992**

"Equality a century ago seemed so pristine and simple. One white man was considered equal to another white man, and that was that.

"Today, for those born to privileged groups in Canada equality is taken for granted: anyone who wants it can have it, they believe - what's the problem?

"My object today is to give the concept of equality closer scrutiny so we can see why it still eludes us in a country which considers itself modern, enlightened, and democratic.

"Consider, for instance, what happens when we attempt to proclaim equality in matters where inequality has been enforced over time. A society becomes moved to deal with engraved inequalities because it can no longer accept the striking disparities which have been created. When it becomes convenient to no longer enforce the inequality either by legal or extra-legal means, there is the assumption that simply declaring the end of inequality makes matters all right.

"The problem is that instant equality creates a cruelly misleading promise. Equality contains the premise that not only are we all at the same starting gate, but that we are all in the same condition to run.

"The engrained results of gross inequities do not disappear quite so easily, however. We are now three generations away from 1918, the year that Canadian men decided to permit Canadian women to vote - that is what happened, isn't it? - and three generations later we still have a Parliament in which only 13% of the Members are women...

"So many people seem to be seeking equality these days that those who exercise power have even created a name for them: "special interest groups". That's very indicative, because persons seeking equality are seen by those in power as wanting something for themselves, for their special interests, taking something away from a zero sum.

"Those who seek equality, however, most often see themselves as simply seeking to create conditions whereby they can make their own special contribution to society.

"The real special interest groups in our society are not the powerless, but the ones who hold power and are unwilling to share it. It is to them that applications for equality are addressed...

"No matter the manner in which it is expressed, the next time you hear a call for equality I encourage you to consider it in terms of finding new balance points in the distribution of power and resources, rather than as a call for expression of a moral principle..."

The Ombudsman

spoke, presented papers, or appeared at these venues in 1991-92:

- April 10, 1991 Kitchener Westmount Rotary Club
- April 19, 1991 "Choices" Career Resource Day, Brantford
- April 21, 1991 East York Day
- April 22, 1991 Simcoe Rotary Club
- May 3, 1991 XVII Annual Congress, International Society for Intercultural Education, Training and Research, Banff Springs, Alberta
- May 14, 1991 Wawatay Native Communications Society Forum, Toronto
- May 16, 1991 Friends of the Bishops of Niagara, Hamilton
- May 17, 1991 "Drumbeat Summit", McMaster University, Hamilton
- June 8, 1991 Spring Convocation and Receipt of Honorary Degree of Doctor of Laws, University of Windsor
- June 15, 1991 Spring Convocation and Receipt of Honorary Degree of Doctor of Laws, Carleton University, Ottawa
- June 16, 1991 Annual Conference, Association of Canadian College and University Ombudsman, London
- June 24, 1991 Western Judicial Education Centre Conference on Aboriginal Issues and Gender Bias, Yellowknife
- August 8, 1991 Select Committee on Ontario in Confederation, Legislative Assembly
- August 10, 1991 Native Women's Association of Canada Annual Meeting, Ohsweken, Ontario
- October 3, 1991 Eastern Ontario Municipal Conference, Kingston
- October 16, 1991 19th Annual International Conference, Society of Professionals in Dispute Resolution, San Diego, California
- October 23, 1991 Standing Committee on the Legislative Assembly
- November 2, 1991 Rotary District 7080 Conference, Tillsonburg
- November 8, 1991 Fall Convocation and Receipt of Honorary Degree of Doctor of Laws, McMaster University
- November 13, 1991 International Congress on the Experience of the Ombudsman, Mexico City
- November 21, 1991 Toronto Community Legal Clinics
- November 27, 1991 Standing Committee on the Ombudsman, Legislative Assembly
- December 4, 1991 Standing Committee on the Ombudsman, Legislative Assembly
- December 18, 1991 Standing Committee on the Ombudsman, Legislative Assembly
- February 3-7, 1992 various venues in James Bay including:
 - Moose Factory
 - Fort Albany
 - Kashechewan
 - Attawapiskat
 - Peawanuck
- February 12, 1992 York University Equality Day
- February 20, 1992 Ontario College and University Library Association 7th Annual Conference, Toronto
- March 2-5, 1992 various venues in Kenora, Fort Frances, Emo and area
- March 6, 1992 International Women's Day, McMaster University

(In addition to the Ombudsman's speaking engagements, staff met with many other groups throughout the province. Examples: North Frontenac Association for the Mentally Handicapped, Canadian Seniors for Social Responsibility, St. Lawrence College, Ottawa Youth Detention Centre, South Renfrew Mental Health Programme, Elizabeth Fry Society, Eganville Seniors' Needs Association, Salvation Army Correctional Services, Timmins High and Vocational School, John Howard Society, Federation des femmes canadiennes-françaises de l'Ontario, District of Parry Sound Municipal Association, and a wide variety of schools, housing authorities, adult learning centres, native friendship centres, and district offices of provincial organizations. Staff also provide liaison with a variety of community groups on an on-going basis.)

VI

National and international activities and visitors

I am pleased to have the opportunity to exchange views with colleagues in other provinces and countries. This helps to keep us informed on advances in the field or to gain new insights into problematic situations and trends. Visitors over the last two years have included David Lander, Ombudsman of New South Wales; Walter Mallmann, Bürgerbeauftragter des Landes Rheinland-Pfalz; representatives of the Austrian Constitutional Court; Kenneth Wiltshire, University of Queensland, Australia; Abdah Rahmancissi, Government of Senegal; Helen Hughes, Parliamentary Commissioner, New Zealand; Rosario Green, Executive Director, National Commission on Human Rights, Mexico; Teruo Nakai, Tokyo Metropolitan Government/Federation of Local Government, Japan; Chaichate Soontornpipit, Secretary General, Office of the Commission of Counter Corruption, Bangkok, Thailand; Charles Aoeo, Papua New Guinea.

The international activities of Ombudsman also assist other countries, including those with whom Canada has considerable trade and social relations, to use the Ombudsman concept to improve human rights and public administration. Last October, I attended an International Ombudsman Congress sponsored by the Mexican National Commission on Human Rights, "with the proposition of uniting the principal Ombudsman of the world to know their rich experience in the mission of guarding the promotion, protection, and defense of human rights of their respective countries." The Congress was inaugurated by the President of Mexico, Carlos Salinas de Gortari and was attended by over 400 persons.

At the annual meeting of the Board of Directors of the International Ombudsman Institute, the Ombudsman of Ontario proposed a special workshop be held at the quadrennial international Ombudsman Conference in Vienna. The objective of the event would be to examine how the work of an Ombudsman might be enriched by the adaptation of traditional means of conflict resolution used by non-Western cultures to deal with issues between public and governments, as well as to consider how the Ombudsman concept can be adapted to serve non-Western countries or countries with indigenous populations. The proposal was accepted, and the Ombudsman of Ontario will deliver the keynote address.

National Investigators' Workshop

Due to the nature of the Ombudsman's work, it is difficult to find opportunities where staff can exchange ideas with others about the special challenges that are faced in Ombudsman investigations. In December, we hosted a national workshop in which there was a free exchange of ideas among representatives of other offices charged with similar responsibilities. Topics included system-wide investigations, remedies available at the end of an investigation, and measures taken to encourage individuals to come forward with necessary information. The workshops were well-attended. The workshops were a vital contribution to the development and training of staff.

The International View: The Ombudsman Around The World

— Jamaica —

"It is vitally important for every segment of society touched by the Ombudsman's functions – the public, the public service, the Government and Parliament – to have respect for and support for the Ombudsman's actions and functions. A sense...of the dignity and integrity of the Ombudsman which can only be engendered and maintained by a mutuality of understanding...is a prerequisite to success."

NORTHERN TERRITORY AUSTRALIA

"The bewildering arms of administration are best described by the superintendent in Franz Kafka's unfinished novel, *The Castle*, who tells the frustrated central characters, "You haven't up to now come into real contact with authorities. All those contacts of yours have been illusory, but owing to your ignorance, you took them to be real."

NEBRASKA USA

"The combined characteristics of modern government tend to generate an assortment of grievances in various cases where citizens feel, rightly or wrongly, that their government has treated them in a manner that is unreasonable, unfair, or improper. While some of those grievances are ultimately resolved through the efforts of the complaining party, many grievances are left unresolved, either because no avenue for solution exists, or because the grievant lacks the resources and sophistication necessary to utilize the avenues that exist. Where such grievances are left unresolved, citizens are alienated from their government and the efforts of governmental operatives are reinforced."

: poland :

"There seems to be an excessive trust in the 'invisible hand of the market' without awareness of the fact that the market functions differently in rich vs. poor societies... The legal instruments of consumer protections were aimed against the dictate of socialized firms. Today, they should protect the weaker party against the dictate of a private supplier of goods and services. That protection was not introduced in time... What is required here are classical measures borrowed from the legislature of countries with established market economy. No where in the world are such questions left to themselves."

Pakistan

"The aspects of maladministration most complained of included delays, acts of omission and commission, discrimination, arbitrariness, perversity, unreasonableness, bias, oppressiveness, unfairness, favouritism, nepotism, administrative excess, neglect, inattention, ineptitude, incompetence, and so on... The Mohtasib (Ombudsman) may arrange for studies or research with a view to eradicating the root causes of maladministration..."

"The institution of Ombudsman may commonly be considered an adversary to bureaucracy as its function ultimately shows up the performance of public functionaries in poor light... he is not only a champion of the aggrieved citizen, but also a friend of the public functionaries and government agencies. While highlighting their shortcomings, he also suggests ways and means to overcome them, which ultimately leads to building up a better image of the agencies, and an improved relationship with the public. The Ombudsman... does not treat complaints as derogatory documents depicting discredit of the Government agencies, but as opportunities for not only redressing the particular grievance complained of, but also of identifying possible loopholes in operating procedures."

• England •

(Commission for Local Administration):

"Customer care and quality assurance are high on the list of priorities for most local authorities these days... Local authority associations are supporting authorities in their quest for excellence... The last few years have seen a dramatic improvement. Not only has recent legislation required social services departments to set up complaints procedures and led to the introduction into local government of monitoring officers, but an increasing number of authorities have established comprehensive complaints procedures for all their services as part of their customer care and quality assurance programmes..."

One of the Commission's stated objectives is to encourage local authorities to settle complaints locally. And it is a key principle of the way the Commission works that investigators should try to secure the local settlement of a complaint at the earliest possible stage in their enquires, and failing that, should continue to do so throughout the investigation.

...Recent legislation has given the Local Government Ombudsman power to require a local authority which continually refuses to implement a recommendation of the Ombudsman to insert, at the authority's expense, a statement in a local newspaper consisting of the action recommended by the Ombudsman and, if the authority wishes, a statement of the reasons for their non-compliance... The cost of inserting such a statement is in many cases greater than the amount of the remedy required...

The Local Government and Housing Act 1989 enhanced the Commission's responsibility to provide authorities with advice on good practice derived from the Local Government Ombudsman's investigations..."

QWAGWA

"To expect the Ombudsman to expunge a society's systematic injustices would be erroneous: he cannot change the values of a society. He can merely strive to uphold fundamental principles already established. The Ombudsman can fruitfully consider a grievance involving disregard of a person's established rights, but he loses effectiveness when he undertakes social engineering of major proportions.

Secondly, the Ombudsman succeeds chiefly when government officials in general share the values he seeks to nurture. A grievance mechanism works smoothly only when those who operate it and those upon whom it operates are worthy individuals moved by common ideals.

Thirdly, Ombudsman in various countries have been of most help to individuals who possess a rights consciousness, something infrequently found among the least advantaged elements of any society. Bringing a new institution into being provides no absolute assurance that those who most need its services will actually receive them..."

Mauritius

"A person who is the victim of bureaucratic process is often tempted to throw down his arms in the belief that he cannot afford to fight against the State, or that the State would be indifferent or even deaf to his grievance. Another one may feel he has a good case against the State, but is discouraged from seeking redress through the Court in view of high cost of litigation and time factor. Such persons must nevertheless be protected against administrative mistake, negligence, undue delay, or any other unwarranted action... Hence the need for an Ombudsman.

Experience shows that very often it is not a particular decision of the administration that hurts or frustrates a person, but a lack of awareness of the reason behind the decision. If the reason motivating the decision is well founded, then once he knows it he has no more cause for complaint and will not complain...

It must not be believed that every time the Ombudsman receives a complaint this means that the administration has gone wrong somewhere. The Ombudsman will certainly poke his nose into the actions of the administration, but he will definitely identify after investigation which complaints are frivolous or unjustified and reject them. He will thus act like a shield for the administration... Therefore, although the Ombudsman is often referred to as the citizen's defender, it would be wrong to call him the administration's accuser..."

Zimbabwe

"When the Ombudsman's powers to diagnose, investigate, redress and rectify any injustice done to persons through maladministration is combined with the citizen's perception of the concept of the institution, a situation is created in which the citizen comes to believe that the Ombudsman has a remedy for every problem confronting him. He is not bothered with the technicalities or jurisdiction or limitation. As a result of this attitude, the Office receives complaints involving agencies clearly outside his jurisdiction... In fact, he also receives complaints based on private disputes and even family or domestic feuds.

The fact that nearly 50% of all applications are not entertained at the outset shows how many people seek the Ombudsman's indulgence. Yet from amongst the sufferers, the Office gives serious thought to problems that could be resolved by his informal intervention... The underlying principle is that a complainant calls on the Office as his last hope. If by our reference he is given relief, he is amply rewarded.

I have been conscious of the ever-present need not just to talk about human rights, but to ensure that something practical is done to protect human dignity, to propagate individual freedom, to prevent unfair discrimination and to protest the abuse of power. An Ombudsman is uniquely in a position to help in this sphere. I frankly do not care if something falls within the ambit of his jurisdiction or not – if that something is evidence of any unfair infringement of a person's rights, it is then, I submit, an Ombudsman's duty to act..."

The Ombudsman is neither the attorney for the State nor the Advocate of the citizen, but the arbitrator for both. Clearly, therefore, the impartiality and independence of the Ombudsman are crucial to the concept, for without a conviction on both sides of the dyad that the enquiry will be without bias, without interference, and without the possibility of external influence, the ensuing conclusion will inevitably be received without satisfaction on final acceptance.

... [The tendency of the people] is to think that he must be a government servant – after all, his pay comes from government funds and must therefore either be subject to Government direction or fearful of government opprobrium if he/she steps out of line. On the other hand, government servants have an inclination to view the Ombudsman as some sort of spy seeking to catch them out, dedicated to proving them wrong or determined to thwart their career prospects...

It is not with the force of power but with the balm of persuasion that the Zimbabwean Ombudsman's Office seeks to solve the problems brought to it... My approach was to take the administrator along with me in solving the grievances of the people. I resolved to avoid confrontation or collision and clash of any kind with the bureaucracy which was extremely well-entrenched and for whom the very idea of accountability was like a personal affront...

This approach was criticized by many well-wishers who thought in different terms... I was expected to be the retribution for the wrong perpetrated by a corrupt and wayward administration. I could have been carried away by this approach which was no doubt seductive and appealing [but] I wanted the idea of accountability to slowly percolate to the lowest strata of administration. Now, when I look back, I find my approach has been right.

Guam

"The society in Guam is an emerging society, and it demands its government render multiple and varied services. This has led to the creation of large and complex administrative bodies. Faced with this bureaucratic giant and all its diverse functions, the ordinary citizen finds himself confused. Being adversely affected by the multiple administrative rulings, he is uncertain where he can appeal and often does not even know that he has suffered any wrong. What can he do? Where can he go for help? What means are available to direct him through the administrative maze of government? The answer to these questions is one word – Ombudsman."

Israel

"Prominent among the characteristics of our time are the expansion of bureaucracy and the increased diversity of the areas of life in which it is involved. This phenomenon creates a wide field for friction between the citizen and the administration, and not a small degree of dependency by individuals on the bureaucratic apparatus. The citizen does not always get a material response or proper attitude in his contacts with those who are supposed to provide him with needed services. Sadly, phenomena such as delays, red tape, indifference and thoughtlessness or even administrative arrogance are not rare.

...Often there are no administrative rules or clear-cut procedures for dealing with a given matter. Even if they exist, the bureaucracy does not always see to it that they are brought to the public's attention...

The first and main aim of the Commissioner's Office is to deal with the specific grievance of the individual complaint. But only too often, the results of the inquiry into a specific case point to malfunctioning of the bureaucratic apparatus and demands the establishment of a general norm... An accumulation of justified complaints on a certain subject often points to a defect in the system and demands that a decision be made extending beyond the specific cases in order to rectify it..."

VII

STATISTICAL INFORMATION

During the 1991-92 fiscal year, the Ombudsman dealt with 33,261 inquiries and complaints.

Figure 1 provides a breakdown by sector of all inquiries and complaints which were closed during the fiscal year. The breakdown of the number of inquiries and complaints is shown in the accompanying table.

Figure 2 shows the final disposition of all inquiries and complaints which were closed during the fiscal year.

- In 26,277 cases (79%), no further action was required or possible beyond the giving of a referral or making an inquiry on behalf of the complainant.
- In 2,528 cases (8%), even though the complaint was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.
- There were 2,040 cases (6%) discontinued. Of these, 1,452 were discontinued by the Ombudsman because an adequate alternative remedy was available to the complainant, or no further involvement was required.

Figure 3 shows the final resolution of all inquiries and complaints regarding provincial government organizations which were closed during the fiscal year.

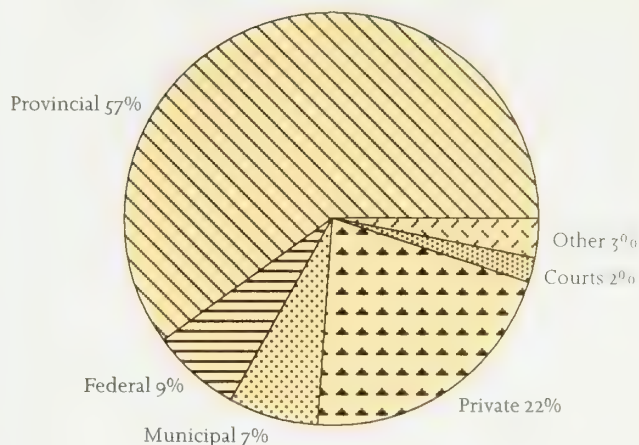
Figure 4 shows the final resolution of all Provincial complaints which were closed during the fiscal year regarding Provincial Governmental Organizations.

Figure 5 illustrates the total number of Corrections inquiries and complaints which were closed by the Ombudsman and the way in which they were resolved.

Figure 6 breaks down the Corrections complaints and inquiries by subject matter.

1991-92 Closed Complaints and Inquiries Involving Both Provincial and Non-Provincial Agencies

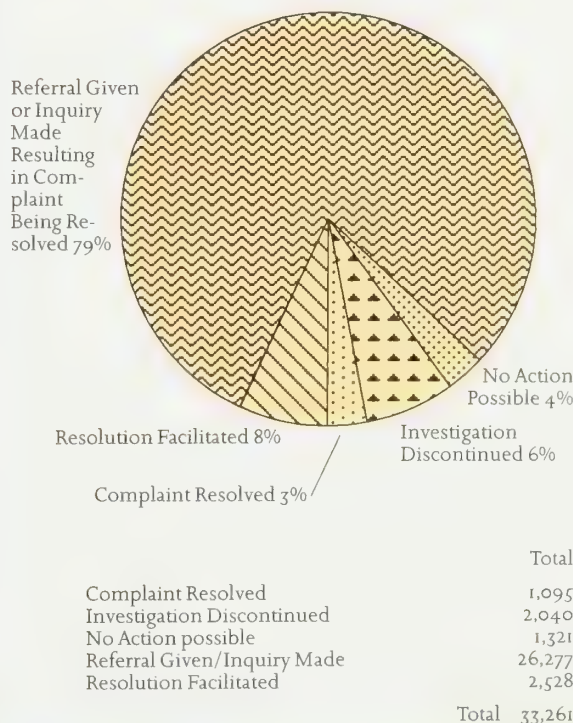
Figure 1



Agency	Total Inquiries	Total Complaints	Total
Provincial	11,997	6,960	18,957
Non-Provincial	-	-	-
Federal	2,761	143	2,904
Municipal	2,087	294	2,381
Private	6,945	421	7,366
Courts	668	81	749
Other	865	39	904
Total			33,261

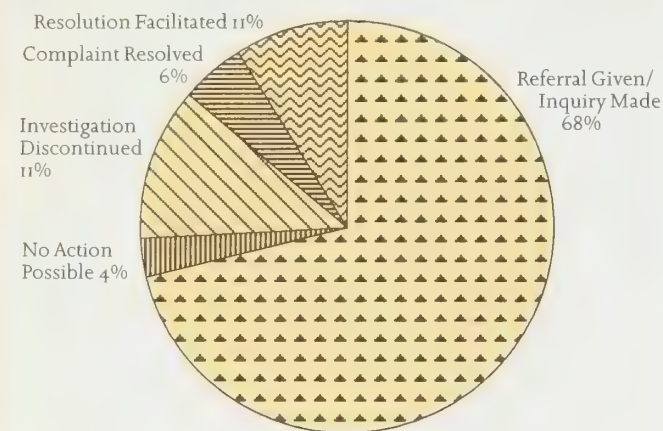
All Complaints And Inquiries By Final Resolution

Figure 2



Provincial Complaints And Inquiries By Final Resolution

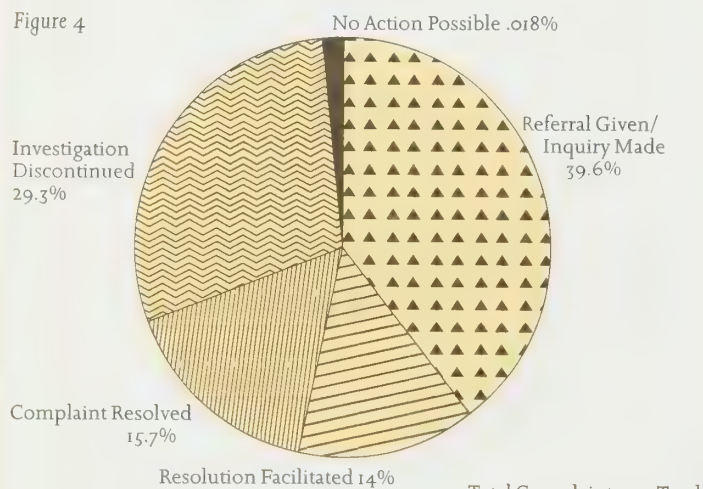
Figure 3



	Total Inquiries	Total Complaints	Total
Complaint Resolved			1,095
By Ombudsman in Favour of Complainant		617	
By Ombudsman in Favour of Government Organization		295	
By Ombudsman in Favour of Government Organization with Suggestions		55	
By other		128	
Investigation Discontinued			2,040
By Complainant		588	
By Ombudsman		1,452	
No Action Possible	673	128	801
Referral Given/Inquiry Made	10,206	2,760	12,966
Resolution Facilitated	1,118	937	2,055
Total	11,997	6,960	18,957

Provincial Complaints By Final Resolution

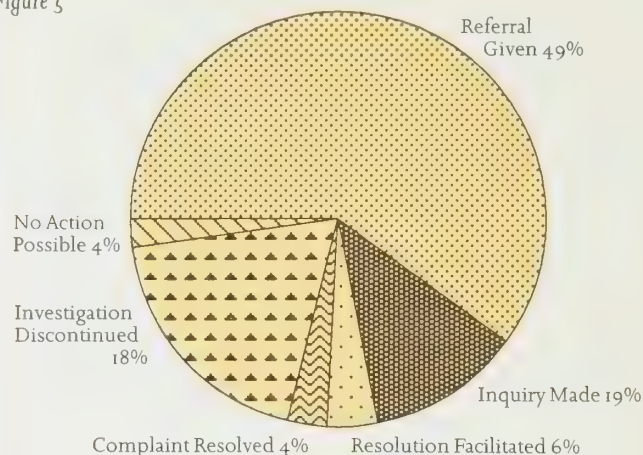
Figure 4



	Total Complaints	Total
Complaint Resolved		1,095
By Ombudsman in Favour of Complainant	617	
By Ombudsman in Favour of Government Organization	295	
By Ombudsman in Favour of Government Organization with Suggestions	55	
By other	128	
Investigation Discontinued		2,040
By Complainant	588	
By Ombudsman	1,452	
No Action Possible	128	128
Referral Given/Inquiry Made	2,760	2,760
Resolution Facilitated	937	937
Total	6,960	6,960

Corrections Complaints And Inquiries By Final Resolution

Figure 5



	Total Inquiries	Total Complaints	Total
Complaint Resolved			288
By Ombudsman in Favour of Complainant		167	
By Ombudsman in Favour of Government Organization		19	
By Ombudsman in Favour of Government Organization with Suggestions		7	
By other		95	
Investigation Discontinued			1,419
By Complainant		386	
By Ombudsman		1,033	
No Action Possible	322	18	340
Referral Given	3,732	149	3,881
Inquiry Made	1,426	63	1,489
Resolution Facilitated	501	14	515
Total	5,981	1,951	7,932

Corrections Complaints And Inquiries By Subject Matter

Figure 6

Subject Matter	Number of Complaints	Subject Matter	Number of Complaints
Health Care Inadequate or Denied	1,328	Telephone Access/Use	73
Classification/Transfer/Committal	1,041	Health - Other	73
Living Conditions in General	490	Glasses, Eye Care	72
Staff Conduct	403	Yard	69
Personal/Inmate Property	384	Religious or Life Style Diet	65
Other	378	No Response to Request	65
Temporary Absence Pass	337	Protective Custody	57
Discretionary Program	322	Living Conditions - Smoking	48
Living Conditions - Canteen Allowance Program	308	Community Resource Centre	43
Living Conditions - Food/Diet	280	Classification - Other	43
Inmate Misconduct	273	Aids, Hepatitis	40
Policy/Practice	209	Mental Health Care	40
Parole	195	Lost Earned Remission	
Dental	167	Punitive Segregation	36
Living Conditions - Segregation	152	Charter of Rights	36
Prescription Request Denied	134	Pre-Release	33
Correspondence	134	Medical Segregation	30
Staff Misconduct - Assault	118	Transfer Federal Institution	29
Medical Diet	102	Freedom of Information/Protection of Privacy	27
Institutional Discipline Other Than Inmate Misconducts	76	Ombudsman	21
Visiting Privileges	74	Ombudsman Letter Denial	20
Living Conditions - Overcrowding	73	Second Opinion Denied	19
		Secure Facility	15
		Searches	11
		Administrative Segregation	9
		Open Facility	6
		French	6
		Intermittent Sentence	4
		Probation	3

VIII

EXPENDITURES

FOR 1991-92

FISCAL YEAR

Salaries	5,392,467
Employee Benefits	1,240,077
Travel & Relocation	192,426
Telephone, Mailing & Delivery	239,388
Building Rent (including tax and maintenance)	1,053,706
Equipment & Other Rentals	94,981
Public Advertising/Communication	387,607
Professional Services	242,170
Training & Development	87,821
Security Services	76,944
Computer Equipment & Software – Purchased	117,442
Maintenance & Support for	
Computer Equipment & Software	63,471
Leasehold Improvements	62,000
Other Services	119,182
Furniture & Office Equipment – Purchased	77,768
Office Supplies & Devices	63,694
Books & Publications	48,813
Printing of Reports & Procedures	11,150
Other Supplies & Equipment	52,745
Total	9,623,852

THE OMBUDSMAN'S OFFICES

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(as of March 31, 1992)

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Lee Anderson
Marney Anderson
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Christine Angus-Jones
Tim Arkell
Betty Baker
Sherry Baptista
Suzanne Bernier
Julie Bertrand
Calvin Blackwood
Paula Boothby
Lorraine Boucher
Maureen Bourns
Ginette Brindle
Dale Bryant
Klaas Bylsma
Mary Carl
Gerry Carlino
Barbara Casson-Robin
Sharon Chambers
Don Cheff
Gillian Clark
Joyce Coolman
Jackie Correia
Francis Corrigan
Jackie Crawford
Fiona Crean
Barbara Crossley
Penny Cummings
Rosie Dear
Zalina Deodat
Millicent Dixon
Steven Drawbell
Edward Durrant
Cathy Evans
Paula Eyler

Serge Falardeau
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Barbara Hirst
Jackie Holmes
Elsa Hung
Lynn Hunt
Esla Hutchinson
Alison Irons
Thomas Irvine
Azire Isovski
Gini Johnson
Eva Kalisz
Olga Katamay
Elizabeth Keddie
Martha Keil
Janet Kershaw
Barbara Kiesecker
Dianne King
Inez Knudson
Lorna Lampkin
George La Rosa
Diane Lauzon
Jane Lawrence
Sharon Leblanc
Allan Lee
Barbara Lee
Judith Lee
Lourdes Legardo
Adam Leigh
Patricia Leydier

Lourine Lucas
Nicole Luer
Victor Marcuz
Carol Markusoff
Laurel May
Florence Mennie
Minerva Mohammed
LaVerne Monette
Dean Morra
Ginette Morrish
Margret Morton
James Nicholas
Sherrie Nicholson
Daudi Ndiwa-Lana
Mary Elizabeth Nugent
Michael Orr
Janet Ortved
David Paradiso
Nancy Parker
Irv Pease
Kathy Penfold
Manuela Popa
Matilda Presner
Wendy Ray
D'Arcy Robert
Faye Rodgers
Josie Roman
Janet Rose
Wolfgang Schulz
Joe Semenciw
Donna Toner
Elizabeth Virc
Elizabeth Weston
Shelly Wilcox
Jennifer Wong
Barbara Worthington
Pam Young
Jackie Yuen
Leticia Zapanta

MISSION STATEMENT

It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations.

The Ombudsman achieves this goal through the prompt efficient investigation and resolution of complaints, issues and concerns which are brought to her attention or are investigated on her own initiative.

While her services are available to all members of the Ontario public, the Ombudsman is particularly alert to the need to serve those individuals and groups in society who are most vulnerable to injustice.

The Ombudsman is assisted in retaining the confidence of public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public.

The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change, and she makes all possible effort to ensure that all people in Ontario are aware of the availability of her services, and that they are accessible to all who wish to use them. The processes and procedures she uses are "people friendly". The Ombudsman's services are rendered in a manner which is culturally-appropriate, timely, cost-efficient, and effective.

The Ombudsman acts in an impartial manner, using objective standards, so the people of Ontario may have confidence in her decisions.

The Ombudsman's educational activities increase the public's knowledge of Ombudsmanship as a mechanism of direct participation in the improvement of democracy.

The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration.

The Ombudsman carries out her mandate with appropriate regard for the role of the Legislative Assembly, the Standing Committee on the Ombudsman, and individual Members.

The Ombudsman contributes to the evolution of Ombudsmanship by developing standards and criteria regarding government administration.

The Ombudsman ensures that her own organization adheres to the standards which are expected of others.

The Ombudsman demonstrates the development and use of appropriate techniques and mechanisms to resolve issues and concerns.

In addition to investigating individual complaints, the Ombudsman examines systemic and "own motion" concerns.



Printed on recycled paper

This Annual Report is available in French.
It is also available on audiotape.

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Annual Report
1992-1993

Ombudsman Ontario



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June 1, 1993

The Hon. David Warner, Speaker
Legislative Assembly
Province of Ontario
Queen's Park
Toronto

Dear Mr. Speaker:

I am pleased to submit to you my Annual Report for the period April 1, 1992 to March 31, 1993, pursuant to Section 11 of the *Ombudsman Act*, so that you might cause it to be laid before the Assembly.

Roberta Jamieson
Roberta L. Jamieson
Ombudsman

Annual Report

for fiscal year

April 1, 1992 – March 31, 1993

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Ombudsman Ontario Mission Statement

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Message from the Ombudsman

AN OMBUDSMAN, by definition, occupies a unique position to view the relationship between government and public. This year, perhaps more than previously, the public and government have been redefining their respective roles and relationship with each other. The stresses can be felt every day in hundreds of calls and letters to our office.

The once-established concept of voters entrusting decisions to elected leaders for a fixed period of time has largely been abandoned. Now people demand accountability almost on a daily basis. People evaluate politicians and public servants frequently, not just at election time, and with an increasing degree of cynicism and scepticism. People wish to be consulted on any decision which might affect their lives. Public servants find themselves under increased pressure to do more with less under increased public scrutiny, while worrying about their own job security.

Governments are faced with another quite different reality. Years of spending in excess of income has mounted a heavy debt. Now a high and still growing proportion of taxes goes to paying interest on the debt rather than providing services. Fiscal restraint imposed on services and programs has been seen as the only alternative to reduce annual deficits.

The worldwide recession which hit Canada so forcefully, coupled with a fundamental restructuring of Ontario's economy have left many people facing a new kind of unemployment, one which threatens to be permanent. A critical remedy is to accept frequent returns to school for increased education and retraining as a prerequisite to becoming re-employed. As well, many people in Ontario for the first time in their lives are in contact with government as new applicants for social benefits, applicants for retraining, adult children seeking elder care assistance. Often, they find the services they had always considered were there for "other people" do not meet the standard of service which they expect for themselves. The result is less tolerance for any breach of courtesy, any delay, any laxity in the government's administration. Frustration and hostility have reached the point where some public servants are seeking protection from irate clients.

At the same time government is cutting back on spending, the public is demanding increased levels of services to assist in meeting increasing demands in their own lives. The public wants improved educational systems at all levels to offer the preparation needed to survive in the world of the future when totally different skills and attitudes will be required. Even two-parent families trying to earn enough to pay for an acceptable standard of living are among those turning to government for expanded programs to help care for children or older relatives while they are at work. For increasing numbers of those called the "sandwich generation" there is caring for both children *and* parents. Increased cuts meeting increased demands is another recipe for friction and dissension.

Another factor to be considered is that government's ways of doing business—consulting, making decisions, providing services, relating to the public—was designed in another time. Like many other institutions in society, those of government have not changed as rapidly as society itself. Long-established structural and bureaucratic patterns are among the factors which keep government from keeping pace in adjusting to the realities of the 1990s.

Like other Canadians, the people of Ontario have prided themselves—and with good reason—on belonging to a society which upholds high standards and values. We say we want a society in which people have equitable employment opportunity, where no one is discriminated against because of race or religion or gender. That is what we believe. But beliefs are empty until they are tested by reality. Today, people who have been excluded from opportunity because of the size of their wallet, because they have a disability or are members of a particular racial group are taking Ontario's principles at face value. They are seeking training, jobs, a discrimination-free environment, government services which respond to their needs, involvement in decisions which affect their daily lives—exactly what many take for granted as standard practice.

When excluded groups point out that the daily reality of their lives falls short of the standard which is advertised as "the Canadian way",

mainstream Canada reacts with surprise, defensiveness, even hostility. The special measures necessary to achieve legitimate aspirations are often labelled as “unreasonable demands”, or advocacy of “reverse discrimination”. Persons who make demands and point out shortcomings are told they are responsible for their own condition. Assumptions are made that we live in a zero-sum world: the more for “them”, the less for me. The result of these attitudes, sustained by ignorance and fear, is that new barriers are thrown up.

The reality is, however, that the extent to which the status quo is preserved so as to exclude the so-called “minorities” or “interest groups” which are the majority of Ontario’s population is the extent to which we all lose in very real terms. A high price is paid socially and economically both because of the costs of unrest and discontent, and the loss of the tremendous contribution to everyone’s well-being which could be counted on if space were created for those who have the potential to make it.

Everyone is concerned in these critical times about getting “value for money”. While the Ombudsman makes decisions based on principles

of fairness and justice rather than money, there is an economic value to the Ombudsman’s work. When people have a means of having their complaints heard and dealt with, they are less likely to need to resort to actions which ultimately cost the public purse more. When public servants know their reasonable actions and decisions will be vindicated by the Ombudsman, they are more likely to be productive workers. When the Ombudsman recommends systemic changes based on the investigation of a complaint, the government can save by making necessary changes which could be costly if they go undetected. When an Ombudsman investigation encourages a governmental organization to provide services to a group which is being neglected or excluded, that action may in turn help that group to be in a better position to contribute to Ontario’s economy—everyone in Ontario gains when that happens.

In my work as Ombudsman, I find the people who are least likely to be aware the Ombudsman even exists are those who are the most vulnerable to unfairness, and those who may have the greatest number of complaints to be registered. To the extent that unfairness continues unidentified and unchecked, not only does an individual suffer injustice, but all society is the poorer for not having achieved a remedy.

I see correcting this situation as part of my mandate as Ombudsman. Deliberate steps have been taken, albeit smaller steps than I would like to take, to reach the populations who are among the most vulnerable to unfairness, the most excluded. I recognize that the process of achieving service equity is necessarily incremental, and requires a great deal of sensitivity, openness, patience, hard work, and understanding with respect both to those within the organization who must do the reaching out, and those we are attempting to reach. A history of excluding and exclusion does not give way easily. Doors which have been perceived as closed may be difficult to open and keep open.

I am convinced every public agency must move as rapidly as possible along this same path if it is to retain the confidence of the public. It may help if



Roberta Jamieson
Ontario Ombudsman

it is understood that doing things differently in the future is not a condemnation of the past, that success will not be achieved overnight, that there is no use looking for the rule book for change because it doesn't exist. People must feel free to invent the strategies which will work.

Some organizations have already begun implementing some measure of service equity by offering government services in a variety of languages both by telephone and in writing. Much more than "translation" is required, however. All organizations must be open to taking the point of view of a wide variety of diverse groups in re-examining their way of doing business. This may involve a fundamental shift in the make-up of a workforce and/or accepted styles of operating. Any public agency with the courage to move voluntarily will find the challenge stimulating, exciting, and well worth the effort. To the extent that others can learn from the experience of this office, I am happy to share what we are learning.

In every instance where government reorganizes and new organizations are created to meet emerging needs, consideration should also be given to the manner in which the public's concerns and complaints will be dealt with when there is dissatisfaction about decisions or actions. If there is to be an internal appeals process, this should be clearly specified. If there is new legislation, there should be a clear understanding as to how the Ombudsman's mandate will impact on the organization when internal appeals have been exhausted. If a principal objective of a proposed new agency is to consider complaints from the public, consideration might be given as to whether it would be more efficient to have those complaints dealt with by the Ombudsman, or whether the expense and complexity of establishing another complaint receiver is warranted.

A concern which I expressed in my last Annual Report continues: no independent body has jurisdiction to review complaints about Children's Aid Societies, municipalities, municipally administered General Welfare Assistance, and with respect to education and public hospitals.

I continue to be guided by the Mission Statement set out in the 1990-91 Report, excerpts of which appear on this Report's first page. Those are the standards, objectives and directions to which I will be held accountable. Achievement has come slower than I expected. Even with the best of preparation, change can create stress and tension, both internally and externally, and tension creates friction which slows progress. I am satisfied, however, that implementation of the Mission Statement is bringing the people of Ontario improved Ombudsman services, and that they can expect continued improvement. Improvement also means "value for money" in operations. In this as well as in other ways, the Ombudsman's organization must set an example for the organizations she investigates if her recommendations are to have credibility.

Furthermore, as the people's representative, the Ombudsman has an obligation to make good use of every dollar received so as to ensure that the public is well served.

As I move into the fourth year of my ten-year mandate, I am tremendously aided by one of the most committed professional staffs which can be found in the public or private sector in Ontario. This Report documents their tireless efforts to give effect to our mission. I encourage you to review the chapters and case summaries which follow to learn more about the quality of service which they provided to the people of Ontario.



Roberta Jamieson
Ombudsman of Ontario

Recommendations – Denied

When the Ombudsman is unable to obtain implementation of her recommendations by government, she may report on the matter to the Legislature. This is an essential measure, since the Ombudsman does not have the power to enforce her decisions. *This year, however, it was not necessary for me to seek the intervention of the Legislative Assembly in order to have my recommendations implemented.* This is not because recommendations have become “easy”, nor because of any resistance on my part to report to the Legislature the unwillingness of government to implement my recommendations. Many recommendations which I make are not accepted initially by officials. I then take the matter personally to the Deputy Minister or head of the government organization. If I cannot obtain an agreement at this level, I contact the Minister, and if necessary, I can put the matter before the Premier. If the Premier declines to act, I am then able to set the matter before the Legislative Assembly.

This is the process set out in the *Ombudsman Act*. The purpose of each meeting is not to negotiate the recommendations, since they remain firm. The objective is to point out why the recommendations should be implemented, and if possible, to work out a mutually-acceptable agreement on a plan to implement them. Since my appointment as Ombudsman, all recommendations I have made have been handled in this manner. Although in some instances when all other efforts had failed it was necessary for me to ask the Premier to intervene, in each case recommendations were agreed upon within the time stipulated before I would have reported the matter to the Legislature.

An Unfavourable Climate

The Ombudsman is an Officer of the Legislature whose mandate and powers is set out by the Legislature in the *Ombudsman Act*. Checks and balances are provided to ensure that spending of the taxpayers’ dollars is scrutinized, and that the Ombudsman reaches her conclusions about the administration of government on their merits of the case and free from political interference. Even so, the balance between accountability and independence has been a perennial topic. Today, even the Canadian Judicial Council, chaired by the Chief Justice of the Supreme Court, is studying the question of judicial independence and accountability.

The Legislature has passed Standing Orders to create a Standing Committee on the Ombudsman and to set out its mandate. On May 28, 1992, that Committee made a Report to the Legislature which contained recommendations which I felt would, if adopted, raise significant questions about the Ombudsman’s ability to act independently. At this same time, a number of unsubstantiated allegations were raised publicly by some Members of the Legislature about the Ombudsman’s operations. As a result, I decided to issue a Special Report to the Legislature to contribute to a well-reasoned dialogue on the respective roles of the Committee and the Ombudsman. In it, I expressed the hope that with increased understanding of the special nature of the Ombudsman institution, there might be a new beginning in which the Legislature and the Ombudsman would be working together to ensure that the public receives the service they need and desire.

As the fiscal year comes to a close, in general, the matter seems to have been settled. It is not my desire to re-open debate on the issues. However, some valuable, if painful, lessons have been learned by the experience which are worthy of being shared since they might not be readily apparent to others. The primary lesson is that after all was said and done, the Ombudsman’s operations were negatively affected by the unprecedented, unwarranted, and often anonymous criticism which was made or repeated. This situation had an impact on relations with the public, with public servants, and with my staff.

Although the Ombudsman is the place of last resort from which there is no appeal, the impression was given to the public that if the Ombudsman did not decide in favour of a complainant that the Standing Committee on the Ombudsman would review their files in a more satisfactory manner. The threat was made with increased frequency to “go to the Committee” if the Ombudsman did not support a complaint.

Some members of the public indicated they had thought twice about bringing their complaint to the Ombudsman because they had heard about a tremendous “backlog” and extensive delays. *In fact, there was no backlog at all and cases were proceeding normally.* It is not known, of course, how many members of the public simply abandoned their complaint rather than to have it become a part of the “backlog” or subject to delay.

Length of time required to resolve written complaints and inquiries:



(Average days to close: 19)

Many Members of the Legislature also became concerned that cases they had sent to the Ombudsman on behalf of constituents might be part of an alleged and imagined “backlog”, and began to request information on a case’s progress on a regular basis. MPP staff members became less inclined to accept the word of the Ombudsman’s staff that an investigation was progressing normally and well. At the same time, many persons and MPPs came forward to express their concern that the independence of the Ombudsman would continue to be protected, and to express their satisfaction about services received from the Ombudsman’s staff.

The negative climate also had impact on the willingness of governmental organizations to cooperate fully with investigations. Small issues were pushed to the limit. A number of officials withheld their agreement to accept the Ombudsman’s findings and recommendations because they were certain that the Ombudsman would not take the matter to the Legislature because of the well-publicized controversy. They would agree to accept the Ombudsman’s recommendations only when they became convinced that the Ombudsman was indeed willing to use all means available to her to achieve implementation of her recommendations.

All of this took time and energy away from the work which the Ombudsman is supposed to do. I sincerely hope that if at any time there are concerns by Members of the Legislature about services provided by the Ombudsman, a way can be found to deal with them which does not have the profoundly negative effect as did the method employed this year.

On March 11, I appeared before the Standing Committee on the Ombudsman to discuss my 1991-92 Annual Report.

Standing Committee on Public Accounts

I also appeared before the Standing Committee on Public Accounts which had instructed the Provincial Auditor to do a value-for-money audit. The Provincial Auditor already audits the accounts and expenditures of the Ombudsman under the *Ombudsman Act*, and for the last three years has reported an unqualified audit. While I welcomed a value-for-money audit as a management tool to help improve the efficiency of my operations, I was concerned that the instruction of the Committee had been made without hearing my perspective on an appropriate balance of accountability and independence.

I requested to appear before the Committee to suggest options through which our mutual objectives could be accommodated without raising questions about the Ombudsman's legislated independence. After the Committee heard my concerns, an accommodation was reached providing for the Provincial Auditor to do a value-for-money audit when he does his regular audit under the *Ombudsman Act*. I have undertaken to provide a copy of the audit to the Legislature's Board of Internal Economy which reviews my Estimates and which is chaired by the Speaker.

A continuing issue about the provision of information

I regret that neither the Government nor the Legislature has dealt with the issue of conflict between *The Freedom of Information and Protection of Individual Privacy Act (FIPPA)* and the *Ombudsman Act* which I brought to their attention in my last Annual Report. While the judicial review application made in 1991-92 was withdrawn for unrelated reasons, the fundamental issue remains.

Through this Report, I once again encourage both to make the changes in *FIPPA* which will make it unequivocally clear that the Ombudsman can access information which is relevant and necessary to an investigation, and to protect all information which the Ombudsman obtains from unwarranted access by third parties.

Sustained discussion with officials of the Attorney General and with Management Board has not resolved the issue. Ombudsman staff have had to undertake unusual measures in investigative procedures to protect information which

becomes available through investigations. These measures have caused delay in investigations and have caused some hardship to governmental organizations in commenting on the Ombudsman's findings. This issue continues to hinder the work of the Ombudsman.

A second issue related to documents and information has arisen. In several cases, I have had to authorize extraordinary measures to obtain documents and information I considered necessary to an investigation. While I do have powers made available to me under the *Act* through which I can obtain information for investigations, a hallmark of Ombudsman investigations should be cooperation between the Ombudsman and governmental organizations so public complaints can be responded to quickly and effectively. It is in a governmental organization's own interest to be seen as cooperating with the Ombudsman to develop a high standard of public service.

The Ombudsman's Mission Statement sets out as a goal:

"The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change, and she makes all possible effort to ensure that all people in Ontario are aware of the availability of her services, and that they are accessible to all who wish to use them."

Two major changes were made in the Ombudsman's organization during this fiscal year in order to develop pro-active service which better places the Ombudsman's staff in community settings doing public education, resolving problems, and receiving complaints. The changes are intended both to streamline operations for efficiency and to provide more relevant and equitable service consistently throughout the province.

The Toronto office was reorganized to create six District Officer positions able to receive inquiries and complaints. Public education became a responsibility of this unit for the first time. All but two of the Ombudsman's District Offices now have a two-person staff complement to deal with an increased volume of work and to provide better access for the communities we serve. Services are offered in both French and English and service in other languages can be arranged as required. Whenever an office is relocated, our practice is to choose a location which provides easy access to all members of the public and full access for people with disabilities.

Access to Ombudsman services means more than just physical improvements. It includes culturally-appropriate communications, services to people who have limited mobility because they cannot afford transportation, or because of geographic location, or because of disability, age, or other factors. Often it is these same factors which limit the ability of people to deal with problems they may be experiencing with government.

Community Access and Intake staff participate in training programs to improve consistency and appropriate standards when dealing with the public's concerns and complaints. Training has also been undertaken in the principles and practices of service equity, incorporating relevant

public education techniques and skills. Training has also assisted staff to distinguish between complaints which can be resolved early and those which require complete investigation. There has been anti-racism training. A staff conference will take place in April for training in the area of systemic complaints and their early identification. Job functions have been reviewed with a view to improving working arrangements and reducing job burnout.

The Directorate's information and referral system, critical to the prompt and relevant provision of service, is being revised and transferred to a computerized database.

Long-range strategic plans for public education activities with specific attention to service equity have been designed throughout the province. Priorities were established for each office to reflect the area's demographic and socio-economic profiles. The first year of the program is being implemented. Generally, public education activities are conducted with "intake clinics", at which people are able to present complaints. Indications are that where efforts have been intensive, non-jurisdictional complaints appear to decrease while jurisdictional complaints increase. The following partial lists provide examples of activities for each region:

Kenora

Staff met with Canadian Red Cross Homemaker Service, Fort Frances Jail, Dryden High School, Project Self-Sufficiency, Sioux Lookout Legal Clinic and have travelled several times to Dryden, Emo, and Vermilion Bay.

Thunder Bay

Staff held meetings in Pikangikum, Sandy Lake, Big Trout Lake, Gull Bay, White Sands, Kingfisher Lake, Moose Factory, Fort Albany, Kashechewan, Attawapiskat, Peawanuck. Staff also met with Ignace Interagency Committee, William W. Creighton Centre, Armstrong Resource Development Corporation. Meetings were also held at Marathon, Pic River, Manitouwadge, and Red Rock First Nation.

London

Staff held a well-attended open house at which the Ombudsman met with service providers, government officials, and grassroots community advocates. Staff met with the Learning Disabilities Association, William Proudfoot House, Alice Saddy Association, Assn. of Iroquois & Allied Indians, Elgin-Middlesex Detention Centre.

Sudbury

Priority in Sudbury this year has been the francophone community. Staff met with l'Association canadienne-française de l'Ontario du Grand Sudbury, le Comité consultatif francophone, Lively Secondary School, Marymount College.

Windsor

Focus was on people with disabilities. In addition, staff met with Windsor Western Hospital Outreach Programme, Unemployed Help Centre, St. Clair College, Salvation Army Over-60's Group.

North Bay

Priority was given to students, people with disabilities and their service providers. Staff met with the Canadian Hearing Society, Centre for the Disabled and Homelink, Literacy Alliance of North Bay, Persons Ruling Over Disability (PROD), Parry Sound Community Living, Rehabilitation Resources Programme.

Ottawa

Priority was providing services to people who are economically disadvantaged, racial minorities and recent immigrants. Meetings were held with adult basic education classes, health-related service providers, and community legal clinics. Other meetings were held with the University of Ottawa Poverty Law Course, Pink Triangle Services, Provincial Conference on Child Care.

Sault Ste. Marie

New staff are just beginning to implement public education plans by making contacts with officials of governmental organizations. Staff also have met with Garden River First Nation Service Providers, Algoma Volunteer Association, Indian Friendship Centre, Anishnabie Naadmaagi Gamig Treatment Centre.

Timmins

Staff have held meetings with Jubilee Centre Drug & Alcohol Recovery Programme, Franco-phone Social Services Students, Northern College, Minto Counselling Centre, Cité des Jeunes Advanced Law Class, Le Projet collège au féminin, Collège Northern, Women's Information Network.

Toronto

Information sessions have been held for community-based leaders in the metropolitan area. Newly-appointed district officers have also attended meetings with, for example, persons who have recently immigrated to Canada at the Bickford Centre, churches, organizations for persons with disabilities, Rosalee Hall (a facility for teen-age mothers) and the Okuatemman Cultural Association. In addition, staff have conducted sessions with inmates of correctional institutions in Toronto, and at St. John's School in Uxbridge, a young offenders' facility.

In addition, Ombudsman staff met with the people of Ontario in a wide variety of schools, housing authorities, adult learning centres, native friendship centres, and district offices of provincial organizations. Staff members also provided liaison with a variety of race relations and community groups on an on-going basis. In all areas, public education includes special emphasis on Ontario's youth by focusing activities on schools and colleges and on out-of-school youth.

Tany's Quesnel
District Officer



The Mission Statement includes:

"It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations. The Ombudsman achieves this goal through the prompt efficient investigation and resolution of complaints, issues, and concerns which are brought to her attention or are investigated on her own initiative."

The Investigations and Legal Services Directorate focused its attention this year on analyzing and improving the complaint process and procedures. The goal was to find the right balance between efficiency, on the one hand, and ensuring that our process honours fairness and impartiality on the other.

Finding balance is necessary, because fairness takes time. When issues are complex and need thorough review, greater formality is introduced in the process to ensure that all parties are heard and all issues are canvassed. Where a step in the process seems to require excessive time, the step is analyzed as to whether the time required is really necessary to ensure fairness to all parties.

A number of steps have been introduced at the beginning of the process in order to save time and reduce frustration later on. At the outset, investigators attempt to frankly review with the complainant the reasonable limits of the final results which they might expect if the complaint is supported by the Ombudsman. This procedure enables complainants to decide at the beginning whether the Ombudsman process could help them realize their objectives.

When it appears that the involvement of a provincial government organization is only incidental to the primary complaint, or when it appears that even if an investigation were to be conducted there is very little we could do in the end, the Ombudsman may use her discretion not to proceed further. By deciding this early on, expectations are not allowed to expand only to be dashed after a long wait.

Another standard practice is to define clearly the scope of the investigation at the outset. A letter is written to the complainant stating the contentions which the Ombudsman intends to investigate. In this way, a clear record is available of issues being investigated.

Standards of time required for each significant step in the process are being developed. This assists in monitoring the progress of each investigation so as to determine if the time involved constitutes "delay", or if the time lapse is in fact necessary for a thorough and fair investigation. Investigators make every effort to work within these standards, and where additional time is required, the justification is provided. The setting of standards will also enable the Directorate to allocate staff resources more equitably and to balance workloads. The review of complaint handling and complaint trends has enabled the Directorate to identify workload issues as well. In order to assign issue areas and complaint loads equitably, a transfer of issue areas between teams will take place early in the new fiscal year.

Every effort is made to achieve satisfactory resolution of complaints or agreement to implement recommendations with officials involved with the matter as early in the process as possible. Our experience is that the further along in the process that resolution occurs, the more time and resources are consumed by staff, the Ombudsman, and by the governmental organization.

The Directorate has also analyzed its working relations with governmental organizations. As a result, a list has been developed of those agencies for which we will undertake strategic education initiatives to improve their understanding of the Ombudsman's mandate.

A project is underway to collect into one format the Ombudsman standards of review and principles of administrative fairness so they can be shared with governmental organizations and members of the Ontario public.

Systemic Investigations

Systemic investigations provides a means through which the Ombudsman can use resources more efficiently by dealing with a number of related complaints in one investigative process, or a flaw in process or procedure raised by an individual complaint which will prevent future similar complaints. In dealing with an issue, the Ombudsman's staff tries to find a resolution which not only addresses the concern of the individual who brought it to the Ombudsman, but also results in new policies or practices which make it unnecessary for other persons to raise the same

complaint in the future. For example, if a flaw has been detected in an agency's process, the Ombudsman expects that not only will the individual complaint be addressed, but that the institution will correct the flaw. In this way, the necessity for people to have to complain to the Ombudsman is reduced.

These "systemic investigations" have profoundly affected the manner in which the Ombudsman deals with complaints and how service to the public is viewed. A number of examples illustrate:

Employment Standards Branch

The Ombudsman began an investigation on her own motion into allegations of long or unexplained periods of delay and insufficient communication with clients in the work of the Ministry of Labour's Employment Standards Branch. While the investigation is continuing, the Ombudsman has taken note that the Ministry recognized and took action almost immediately on one important aspect of the problem. At the time a complaint is registered, every claimant is now told in writing approximately how long it will be before the Branch's investigation can commence. This practice has resulted in a dramatic decrease in the number of inquiries filed with the Ombudsman.

Ministry of the Environment

An environmental group, the N Association, contacted the Ombudsman about frustrating delays encountered in their dealings with the Ministry of the Environment. The group had written the Ministry in early 1990 with a request to have a proposed expansion of a quarry operation subjected to a formal hearing under the *Environmental Assessment Act*. However, they could not get a decision from the Ministry. The Ombudsman investigated and informed the Ministry she was considering the issuing of a report which concluded the Ministry had taken an unreasonable period of time to make a decision on the request of the N Assn. As a result, a decision was issued in August, 1992, along with an apology from the Minister. Since the Ombudsman had concluded that the delays had occurred because the Ministry had not taken adequate measures to expedite the decision-making process and the elimination of a backlog of requests, the Ministry

developed a process to track all requests it receives. In fact, it extended the monitoring process to other types of applications handled by the Ministry. The Ombudsman also called for the adoption of specific and adequate standards for responding to requests. The Ministry reported it was now taking significant steps to ensure that all requests receive a Ministerial decision within 120 days of receipt. As a result of this and other complaints, the Ombudsman also investigated the Ministry's delay in responding to correspondence. The Ombudsman is continuing to monitor the Ministry's efforts to markedly improve the manner in which it handles correspondence.

Ministry of Correctional Services

In 1989, the Ministry established a regulation that in order to be eligible for Canteen Allowance credits, inmates had to be sentenced to twenty-one days or longer. As a result, the Ombudsman began to receive complaints from inmates on remand—those who had not yet been sentenced, but who in many cases may be confined for months. The perception was that the regulation was discriminating against remanded inmates. The Ombudsman decided to undertake an investigation on her own motion. It was found that all inmates, including those on remand, are expected to perform work, participate in institutional programs, and demonstrate positive conduct. International principles call for remanded prisoners not being treated the same as sentenced inmates, and in this instance, they were receiving poorer treatment. The Ombudsman also found that the Ministry had a responsibility to be fair and equitable in its delivery of programs and services. She concluded the regulations were inappropriate, discriminatory, and wrong. As a result, the Ministry joined with the Ministry of the Solicitor General to restructure the Canteen Allowance program. All inmates will qualify for a \$10-a-week canteen allowance credit after having been in custody for two consecutive Monday-Sunday weeks. The change will require a change to the Regulations under the *Ministry of Correctional Services Act*.

In December, the Directorate held a day-long seminar to address the ways in which systemic issues are identified and the variety of means that

are used to deal with such investigations. The seminar was useful as a first step in identifying issues regarding systemic investigations and there will be a series of other seminars to focus on specific areas.

The Directorate is also working with other directorates to find ways of identifying and monitoring trends and systemic issues as they are evolving.

While changes in process and procedures can create certain efficiencies, other kinds of changes will be required if the Directorate is to continue to increase productivity. Investigators need to have access to computer terminals and an improved communication system. However, at some point, the workloads will become saturated if complaint load continues to increase.

The following governmental organizations are considered by the Ombudsman and her staff to be **"Gold Star"** because of their timely responses to the Ombudsman's letters or reports, for providing relevant information, for extending cooperation throughout an investigation, for willingness to make improvements in policies, procedures, practices and guidelines. *The Ombudsman commends:*

- Family Support Plan
- Ministry of Transportation
- Ministry of Consumer and Commercial Relations

Other Commendations

The **Ministry of Natural Resources** has been working to ensure greater fairness and public involvement in its planning processes, and to develop mechanisms for conflict resolution in decision-making. As the Ministry notes in a discussion paper, "Often resource management disputes arise over conflicting or competing environmental, economic and social interests. In these disputes, the challenge is to reach a decision for long-term health and sustainability of natural resources." The Ministry also noted, "The Ombudsman for Ontario has on numerous occasions suggested that provincial agencies

Corrections continues to be an area which provides a high volume of complaints and inquiries. The Directorate has reorganized the method of dealing with these complaints by providing computer terminals to investigative researchers and assigning particular individual staff to institutions in specific regions of Ontario. This ensures quicker assignment of files and guarantees a regular number of timely visits to institutions which maintains the Ombudsman's clear presence. This method also helps to establish good working relationships with officials in individual institutions and early identification of systemic issues in an institution when they arise. A similar restructuring is planned with respect to provincial psychiatric institutions.

The following governmental organizations merit a **"Tarnished Star"** because responses to the Ombudsman are slow in coming, because relevant information is not always supplied, because of lack of cooperation in investigations, and/or for a reluctance to make recommended improvements in policies, procedures, practices and guidelines:

- Ministry of Environment
- Ministry of Health
- Ontario Human Rights Commission
- Ministry of the Attorney General

incorporate dispute-resolution and appeal mechanisms into their decision-making processes." The Ministry is to be commended for its moves in making alternative conflict resolution methods recognized, understood, and readily available.

The **Rent Review Hearings Board** can take pride in putting itself at the forefront of Ontario administrative tribunals by adopting a realistic and attainable code of ethics/rules of conduct for its members. The adoption of the principles followed a meeting of the Ombudsman with the Chairperson.

The Ombudsman's Mission Statement sets out this goal:

"The Ombudsman is assisted in retaining the confidence of public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public."

The staff complement of the Ombudsman remains the same as that of the predecessor Ombudsman: 129. That number is just seven more than that of the first Ombudsman appointed in 1977. In the intervening years, the number of inquiries and complaints has tripled. This means the current staff are working smarter and more efficiently in a period of fiscal restraint so that the people of Ontario can continue to receive a high quality of service from the Ombudsman. This year, six positions in Toronto were converted into district officer positions to offer improved service to the public.

In January, 1992, a number of new initiatives were launched to fill staff vacancies. A more consistent internal posting system allows current staff opportunities for promotion. Recruitment advertising encourages inquiries by telephone and fax transmission of resumés. Notices of vacancies are sent to grassroots community groups to attract candidates who reflect all sectors of Ontario's population. These and other new recruitment efforts based on employment equity principles will result in an Ombudsman staff which better reflects Ontario's diversity. Increasingly, the Ombudsman's staff includes persons with experience with grassroots community-based organizations and service providers who complement other staff who contribute organizational and bureaucratic experience.

The process for orientation of new staff has been improved, and groups of new employees are interviewed after they have worked for a time to provide for feedback as to how their orientation could have been improved still more.

For the first time, the Ombudsman is guided in making human resources decisions by a comprehensive, values-based strategic plan which is linked with the Ombudsman's workplans and



Julie Bertrand
District Officer

budgets at each level of the organization. A comprehensive plan to involve staff in improving all aspects of staff involvement in the Ombudsman's operations was launched with a staff opinion survey, administered by external consultants to ensure absolute confidentiality and anonymity. The survey examined fourteen different aspects of the Ombudsman's operations, including psychological working environment, recognition and rewards, employee development, goals, and communication.

The external consultants reported an overall impression that although the organization was experiencing problems in some areas, timely and proper remedial action could create substantial improvements which the majority of staff desired. A "Navigation Team" working group representing both management and staff, received the full results and was asked to establish priorities, make recommendations, and summarize work-in-progress. The Ombudsman committed to build these priorities into the 1993-94 workplans and budget.

Small task forces with equal representation of management and staff from each of our directorates have begun to research policy changes

related to employment equity; a flexible, compressed work-week in the context of extended hours of service to the public; job evaluation; performance management.

In addition, management and staff have begun a systematic review of all human resources policies. A new revised reference guide to policy and process will be issued in the next fiscal year.

In addition to training in alternative dispute resolution techniques, anti-racism and cultural sensitivity which they have received, staff expressed a need for more support with respect to short-term skill training, long-term career development, technological training, French language training, and lunch-hour learning sessions. Another training concern was that many managers and directors have had limited formal training in managing staff, particularly in a period

of change and transition. Many of these issues have already been addressed, and others are in progress. The Human Resources Directorate has developed a resource centre of seminar schedules, videotapes, tapes, and books for independent learning.

A new program, "Familycare" offers comprehensive information, resources, and a new support service to help staff obtain childcare or eldercare service needed to manage work and family responsibilities.

A Human Resources Information System assists the Directorate to manage records more effectively and efficiently. The system will provide management reports and assist in making communications more effective with individual staff members regarding benefits coverage.

We continue the process of progressive change through collective bargaining now under way. In January, Bill 40 came into effect, amending Ontario's labour laws with respect to collective bargaining and employment. In February, the Ombudsman's staff certified with the Office and Professional Employees International Union. The Ombudsman and staff hope to reach agreement on a progressive first contract which ensures that staff have participation in workplace decision-making and that the Ombudsman can achieve the standard of service set out in the Mission Statement.



Joyce Coolman
Computer Operator

The Ombudsman's Mission Statement sets out as a goal:

"The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration."

The staff of this directorate focused energies during the fiscal year on designing and implementing information systems so that the Ombudsman's staff would provide better service to the people of Ontario. A number of foundation-building projects will provide the basis for operational systems for the next five to ten years. Plans for the next fiscal year call for the Ombudsman's office to install a new comprehensive information system.

Voice Mail

To improve responsive communication with clients, voice mail service was established for fifty investigators and researchers.

Integrated Office System Design

With the 1988 contract for the office's computer system coming to an end, a major study was undertaken to develop a system which would incorporate word processing, inquiry and case management, financial accounting, intake and referral, electronic mail, information access, regional office communication, and public education.

An Integrated Finance System

All key financial operations are tied into one integrated system with three key elements.

An improved **Budget System**. A system was established for ground-up budget building by obtaining the valuable input of managers and staff of each of the 22 "cost centres" within the Ombudsman's operations. As a result, the final Estimates which the Ombudsman will present to the Legislature are more reflective of the needs of the organization, and all staff members have a greater appreciation of the budgeting process.

Forecasting and Monthly Monitoring

System. On-going management of expenditures according to the budget will be possible with a new system which reflects the amount spent and commitments made at any point in time. Managers are polled each month to ensure all future commitments have been reported. This forecast is key in the management of expenditures and represents a different perspective for looking at the approved budget.

Improved Financial Reporting System.

A move was made from dependence on the provincial government reporting system to our own in-house system. Financial information can be provided to decision-makers in a timely and accurate fashion. Many new reports were created for the unique Ombudsman operations.

A New Payroll System

To meet the Ombudsman's unique payroll requirements, a new payroll system will be contracted to a service bureau. The new system has electronic access, giving the Finance Directorate greater freedom of action and control over processing and reducing substantially the amount of manual work required.

Improved Statistical Reporting

A project was undertaken to address deficiencies and inconsistencies in reporting of the Ombudsman's statistics. The new reporting system presents numbers which have meaning through the use of charts and graphs. New statistical data are now being collected. The benefits of many of these improvements can be seen in the statistical section of this Report. Other changes will be put in place at the beginning of the next fiscal year.

Liaison with other Ombudsman

Since Ombudsman across Canada have similar financial management situations and needs for certain kinds of information systems, working relationships are being established with other offices which should prove to be mutually beneficial.

Selected case studies
illustrating the
Ombudsman's
work and
reasons for
complaint

Each person who asks the Ombudsman for assistance can expect to receive individual attention. There are too many cases for each one to be summarized in the Annual Report. The summaries which follow have been selected from the thousands of cases brought to the Ombudsman each year because they are illustrative in describing the sort of matters brought to the Ombudsman and how the Ombudsman and her staff do their work.

The name of the governmental organization involved in a case is not identified unless it is necessary for the summary to make sense, or where it is obvious which organization is involved, the name of the organization is given. Each of the cases described in this section were closed during this fiscal year.

Joe Semenciw
Records Analyst



For this year, in order of frequency, the most common issues people raise in their complaints to the Ombudsman are:

1. **Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence;**
2. **Adverse impact or discriminatory consequence of a decision or policy on an individual or group;**
3. **Harassment by a government official; bias; mismanagement; bad faith;**
4. **Failure to adhere to its own processes, guidelines or policies, or to apply them in a consistent manner;**
5. **Failure to communicate adequately or appropriately with client;**
6. **Unfair settlement imposed or coercion applied;**
7. **An inadequate or improper investigation was conducted;**
8. **Unreasonable delay;**
9. **Insufficient reasons for decision or no reasons given;**
10. **Denial of service;**
11. **Failure to keep a proper record;**
12. **Omission to monitor or manage an agency for which the governmental organization is responsible;**
13. **Failure to provide sufficient or proper notice.**

Sometimes the Ombudsman can help to resolve situations where legislative provisions seem to conflict. As the result of the Ombudsman's investigations and findings, amendments to legislation may be proposed.

Several property owners discovered they had been paying property taxes on an incorrectly-described building for some 27 years. They discovered the error in the Ministry of Revenue assessment when they appealed their property assessment under the *Assessment Act*.

According to the *Municipal Act*, had correction of the error required an increase in their taxes, the correction could have been made. But because a reduction in taxes would have resulted from the correction, the error was allowed to stand. The property owners asked the Ombudsman to look into this apparent unfairness.

The Ombudsman's investigation found that property owners should be entitled to consideration of their request for a property tax rebate for the two years prior to the year in which the error is discovered.

However, the wording of an amendment to the *Municipal Act* prevented consideration of rebate requests if the error had been brought to the property owner's attention as a result of their launching a property assessment appeal.

The Ombudsman did not consider this combination of legislation to be fair. However, settlement became complicated because the Ministry had made errors in its record retention process and could not document whether errors had occurred in the two-year period prior to their discovery. The Ministry agreed to a cash payment to the property-owners. It also agreed to implement a revised record retention schedule to ensure that property assessment records would be retained until all rebate possibilities to which they would apply had expired.

The problem of conflict in the legislation has been brought to the attention of a joint committee which includes the Ministries of Municipal Affairs and of Revenue to review the legislation affecting municipal tax rebates. The Ombudsman has advised both ministries that taxpayers should be entitled to the same rights of having errors corrected when their property taxes are affected in the same way that municipalities enjoy.

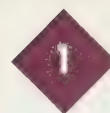
Sometimes the Ombudsman can assist persons to find their way through the jurisdictional maze of the governmental organizations.

Ms. E works for an organization which operates, in part, under federal legislation. When she had a human rights complaint, she took it to the Canadian Human Rights Commission. It suggested she should see the Ontario Human Rights Commission (OHRC). A debate followed between the two organizations as to who had jurisdiction, and neither commission was willing to take a complaint from Ms. E. She asked the Ombudsman for assistance.

The Ombudsman made inquiries, and was able to determine that the Ontario Human Rights Commission did have jurisdiction. The OHRC wrote Ms. E to confirm its willingness to receive her complaint.

Fairness requires that governmental organizations interpret policies, regulations, and laws on a reasonable basis.

Example 1: Mr. A, a real estate and business broker, relocated his office from Toronto to a metropolitan community. When he applied for a renewal of his status as a Commissioner for taking affidavits, he received a letter from the Ministry of the



Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence

Attorney General refusing the renewal. The Ministry said that since he was in a new jurisdiction, a re-appointment would be necessary, and that Mr. A. did not meet certain new criteria. Mr. A. believed this action was unreasonable, because he thought that jurisdiction as a commissioner was unaffected by the relocation. He wrote to the Ombudsman to ask for assistance.

When the Ministry was advised the Ombudsman intended to investigate the matter, it did a second check. The Ministry reported that Mr. A's application for renewal had been refused in error, since the new criteria applied only to new appointments, not to re-appointments. Mr. A. received a renewal of his commission.

Example 2: When Mr. F retired as a teacher, benefits were calculated for his own pension and, if he should die first, for a survivor's pension for his widow. After his retirement, Mr. F's wife died, and he married for a second time. The Teachers' Pension Plan Board informed him that, if he wished to provide survivor's benefits for his second wife, there would be an additional cost. As a result, Mr. F's own pension was reduced to pay for the new benefit.

Mr. F considered that decision unfair, because his first wife would have been entitled to a survivor's pension without any further reduction in his own pension. He also believed that it was unfair that his reduced pension would continue for the rest of his life, even if his second wife died before he died.

The Ombudsman investigated. She found that the calculation of pension benefits is based on the terms of the plan and information from insurance actuaries, who take into account the expected lifespan of both the pensioner and spouse. Because of the remarriage, the actuarial basis of the calculations and the expected cost to the pension plan changed, since Mr. F's second wife was younger than his first wife, and would be likely to receive pension benefits over a longer period of time than was originally calculated.

The Ombudsman noted that the Ontario Teachers' Federation did not find this requirement unreasonable. She also found the fact that the reduction continued for life was based on standard insurance principles. As well, she found that if Mr. F's pension were not reduced to cover the additional cost of his second wife's survivor's pension, there would be a negative impact on other members of the pension plan.

In the light of these findings, the Ombudsman decided that the Board's decision was not unreasonable.

Example 3: Mr. X came to the Ombudsman to complain that the Workers' Compensation Board (WCB) had not correctly interpreted a decision of a Workers' Compensation Appeals Tribunal.

Originally, the Board had denied Mr. X entitlement to disability benefits stemming from a 1977 accident. Mr. X spent several years appealing that decision to the Tribunal. Eventually, the Tribunal granted his appeal and sent its decision back to the Board to be implemented. The Board interpreted the decision as being in its favour, however, and refused to issue benefits to Mr. X. It told Mr. X that if he wasn't satisfied, he could once again start out on the lengthy process of appealing to the Tribunal.

In total frustration, Mr. X asked the Ombudsman for assistance. Both the Board and the Tribunal confirmed that the only procedure available was to begin another appeal. The Ombudsman suggested to the Board's legal counsel that the appeal

procedure was intended to address disagreement with interpretation, but in Mr. X's case, the problem was an *erroneous* interpretation. The Board's counsel accepted it would be unreasonable to place the onus on resolving this error on the injured worker.

As a result, the Board agreed to overturn the erroneous interpretation. Mr. X received three cheques for retroactive benefits and interest totalling \$34,000.

Example 4: Mr. Q passed his hunter's safety course in a small northern Ontario town, and as a result, he bought his hunting license. Shortly afterwards, Mr. Q moved to Southern Ontario where he lived for four years.

When Mr. Q relocated back to Northern Ontario, he wanted to buy a hunting license. The Ministry of Natural Resources denied his request because they had no record he had ever passed the hunter's safety course. Mr. Q offered to provide sworn statements from two Ministry employees who knew he had passed the course and had a previous hunting license, but the Ministry stood firm in its refusal.

Mr. Q asked the Ombudsman's staff for assistance. Following informal inquiries, the Ministry agreed to accept a sworn statement from an MNR employee and Mr. Q received his hunting license.

Often the Ombudsman is asked to investigate what appear to be unreasonable delays.

The progressive nature of Mr. T's medical disability caused the Ministry of Transportation to suspend his driver's licence. It requested further medical information from Mr. T so his ability to drive could be assessed. Mr. T submitted all the required documents, and his licence was scheduled to be reinstated as of a certain date. However, a month after that date, Mr. T still had not received his reinstatement notice. When he called the Ministry, he was advised that his reinstatement was still "held up". He asked the Ombudsman to investigate.

The Ombudsman contacted the Ministry. The Ministry found it had misinterpreted certain medical reports. The Ministry apologized to Mr. T for the delay and his licence was promptly reinstated.

The Ombudsman's investigation may find that a governmental organization reached its decision properly.

Mr. R applied to purchase pension credit for a period of employment during which he had not contributed to his Ministry's pension plan. The Ontario Pension Board processed Mr. R's application within three months of having received all the documents. Meanwhile, Mr. R received some retroactive salary increases. The Pension Board used the higher salary level in calculating Mr. R's pension contributions. Mr. R believed this was unfair and that the salary he was receiving when he signed the application should have been used in the Board's calculations of the cost of pension credits he was buying. He asked the Ombudsman to investigate.

The Ombudsman did investigate and found that the Board's practices were not unreasonable. The initial application is not the basis for determining the salary level on which to base the calculation. The Ombudsman found that the Board's use of the actual salary truly reflected the cost of the buy-back, and that assessing this cost to Mr. R was not unreasonable.

Adverse impact or discriminatory consequence of a decision or policy on an individual or group

While the Ombudsman does not take an advocacy role with respect to individual cases, she is an advocate for the highest possible standard of administrative fairness and can often bring about change in the way things are done.

Ms. M and her children lived in a Housing Authority home which was leased in her husband's name. When an abusive situation had developed and her spouse had left, the rent was not being paid. The Housing Authority issued an eviction order.

Ms. M then applied for housing for herself and the children under the Special Priority Policy for Assaulted Women. When it seemed that the Housing Authority intended to proceed with the eviction before her application under the priority policy had been dealt with, Ms. M asked the Ombudsman for assistance.

After conducting her investigation, the Ombudsman concluded that the Housing Authority had not taken reasonable steps to verify Ms. M's application under the special policy.

As well, the Ombudsman found the Ontario Housing Corporation/Ministry of Housing had failed to ensure that all Housing Authorities understood and consistently applied the Special Priority Policy for Assaulted Women. She suggested a directive be issued to the Authorities.

The Ombudsman also recommended that the Ontario Housing Corporation/Ministry of Housing undertake an evaluation to determine the manner in which the Special Priority Policy was being implemented by Housing Authorities. Both governmental organizations agreed to act upon the Ombudsman's recommendations.



Vic Marcuz
Assistant Director

Fairness means that policies should be applied consistently.

The III Corporation is a company which cleans empty drums, crushes them, and recycles the material as scrap. Because this could generate wastes which could be harmful to the environment, the Corporation is subject to stringent pollution controls enforced by the Ministry of the Environment.

III Corp. became aware that firms which recondition the same type of drums for re-use had been granted an exemption from these strict controls, even though they generate the same kind of harmful wastes. The company complained to the Ombudsman that this inconsistency was not fair.

The Ombudsman discussed the matter with the Ministry. It agreed to end the exemption that the reconditioners had enjoyed.

The Ombudsman's intervention can cause a governmental organization to re-examine its policies and procedures when the investigation finds flaws which could cause future problems.

Example 1: Mr. U had sent some bulls to a provincially-sponsored testing station. The station refused to accept the bulls because Mr. U had failed to conform to a requirement the station had insisted upon for several years. Mr. U had to send the bulls to another test station over 600 miles away. While the Ministry of Agriculture and Foods pays a transportation subsidy to assist farmers in sending bulls to the test station, the maximum distance covered is 500 miles, and that is all it would pay Mr. U.

Mr. U felt he had been treated unfairly, especially since the first testing station is the only one in the province which had the particular requirement which he failed to meet. In fact, the Ministry later ordered the station's policy to be discontinued. He asked the Ombudsman to investigate.

The Ombudsman did investigate, and advised the Ministry it had acted unfairly in limiting Mr. U's transportation subsidy to 500 miles since his bulls had been denied entry because of a policy the Ministry itself found unacceptable.

However, the Ombudsman also found that Mr. U was aware of the 500-mile limit, should have consulted with the Ministry before deciding to send his bulls to the more distant station and incurring significant extra transportation costs.

The Ombudsman recommended that the Ministry share with Mr. U equally the extra transportation costs beyond the 500-mile maximum. The recommendation was agreed to.

Example 2: Mr. G came to the Ombudsman's district office in his area to express his annoyance with the Family Support Plan. He understood that an amount would be deducted from his pay for the support of his family. The problem was that the deduction appeared on the cheque stub in the column "Garnishee", which held negative connotations that he was unwilling to pay. Mr. G felt his reputation was being damaged.

The Ombudsman's staff contacted the Family Support Plan to find Mr. G's situation was not unique. It was a province-wide problem which needed to be addressed. The Ombudsman's staff then made informal inquiries of the employer, a large corporation. As a result, the employer agreed to change the coding on the cheques so in the future similar deductions will appear on the cheques of Mr. G and all other employees in a column headed "Support".

**Harassment by
a government
official; bias;
mismanagement;
bad faith**

Although all complaints are treated seriously by the Ombudsman, complaints of abuse and related cover-ups require special attention.

Several individuals approached the Ombudsman regarding a governmental organization's earlier investigation of allegations of staff abuse and the condoning of abuse by a manager. The institution is in a rural area, and is home to many disadvantaged individuals.

In cases such as these, the Ombudsman's role is not to reinvestigate every element of the original allegations, but rather to assess whether the allegations had been dealt with appropriately. For example, the administrator's actions are checked against the organization's own standards and guidelines. These guidelines are also compared with standards and guidelines used by other organizations. As well, the decision-making process is examined for fairness.

In this instance, an extensive and comprehensive investigation of the allegations led the Ombudsman to conclude that the organization's own investigative processes were fair, and that the complaints could not be supported.

Sometimes as the result of the Ombudsman's investigation, officials take action to ensure an existing policy is correctly followed in the future.

When Ms. W entered a provincial detention centre, she was told to strip so she could be searched. This is the standard procedure used in all correctional institutions for new admissions. Ms. W refused to strip and be searched. As a result, male correctional officers were summoned to assist while she was being searched.

Ms. W complained to the Ombudsman that it was wrong to have male officers present and assisting in the search. She also complained that it was unreasonable for the strip search routine to be applied upon admission to the institution.

The Ombudsman investigated Ms. W's complaints. She concluded that the detention centre officials had not acted unreasonably by requiring new inmates, including Ms. W, to submit to a strip search, since otherwise there would be potential for contraband to be brought into the institution.

The Ombudsman found that the use of male officers in the search of Ms. W was both wrong and contrary to law. The Ombudsman recommended that the Deputy Minister of Correctional Services provide Ms. W with a letter of apology. The Deputy Minister agreed with the recommendation, and the letter was sent.

Mr. T contacted the Ombudsman because his Family Benefits had been suspended because his entitlement was in question.

Mr. T's case worker had told him that his eligibility would be reinstated if he provided Social Services with his authorization for the police to disclose a report of a situation in which he was involved. Mr. T had refused to give authorization because he believed the police report was irrelevant to his eligibility for benefits.

The Ombudsman's staff made informal inquiries and learned Social Services was interested solely in the police officer's determination of Mr. T's residence and the residence of his spouse. No other part of the report was of interest. Social Services agreed to accept as sufficient an authorization to disclose which was limited exclusively to the residency of the two spouses. Mr. T agreed to provide this authorization.

Ms. S's car went out of control on a patch of ice and hit two guard rails. Although she was not charged as a result of the accident, the Ministry of Transportation sent her a bill for \$110.40 for damage to the guard rails. She paid the bill, but she complained to the Ombudsman that the Ministry had been unreasonable to request payment since the accident had occurred as a result of weather conditions. If she had been at fault, she said, she would have been charged.

The Ombudsman made initial inquiries. The Ministry agreed that under the circumstances, it should use its discretionary powers to waive the charge. It reimbursed Ms. S the full amount she had paid.

Mr. N worked for ten years with companies who had contracts with a governmental organization. It was the practice of the governmental organization to approve of the employees hired by the contracted companies. Mr. N wrote to the Ombudsman to complain that approval for him to continue working had been unreasonably withheld.

The Ombudsman investigated and found the reason the governmental organization had withheld approval for Mr. N to continue his work was because of allegations that Mr. N had been involved in a particular incident in the past. The Ombudsman's investigation found that the allegations against Mr. N could not be substantiated.

The Ombudsman tentatively concluded that the decision of the governmental organization had been unreasonable, and recommended that it pay Mr. N \$10,000 to settle the matter, or that it pay him \$2,500 for the losses suffered and authorize the contracting company to return him to his employment. The governmental organization agreed to the latter alternative.



Jeanne Ang
Word Processing
Operator

**Failure to
adhere to its
own processes,
guidelines or
policies, or to
apply them in a
consistent manner**

Fairness requires that a governmental organization adhere to its own processes, guidelines, and policies, or apply them in a consistent manner.

Example 1: When a ministry called for tenders for trucking services, Mr. and Ms. E submitted their bid. After the call for tenders had closed, the ministry changed the rules, explaining that the change would make the process fairer to all competitors. Mr. and Ms. E considered this unfair, because they believed they would have won the contract under the rules in place when they submitted their bid.

The Ombudsman investigated. She found that although the rule changes did remove an unfairness in the existing system, changing them after bids had closed meant that Mr. and Ms. E had made their bid under one set of rules, only to have decisions made under another set of rules.

When the Ombudsman advised the ministry that it appeared Mr. and Ms. E were treated unfairly, the ministry agreed that the process had been flawed and offered compensation. Mr. and Ms. E agreed to negotiate the amount of compensation directly with the ministry.

Example 2: Mr. B was a tourist outfitter who had for a number of years operated a bear hunt in his area. In 1988, the Ministry allocated specific “Bear Management Areas” to outfitters. Mr. B received his regular area, but another outfitter who had hunted the area for a short time appealed the decision to the Bear Management Committee. It ruled that the second person was also entitled to a portion of the area both he and Mr. B had used. Mr. B felt this was unfair, and he asked the Ombudsman to investigate.

The Ombudsman found that the Committee had been inconsistent in its application of eligibility criteria. In Mr. B’s case, it had taken into account considerations which were not included in the criteria. She therefore concluded that the Arbitration Committee had been unreasonable.

However, the Ombudsman also recognized that the second outfitter had been using the area for some time. The Ombudsman recommended that Mr. B should be allocated the next suitable BMA which became available. The Ministry undertook to do so.

Sometimes the Ombudsman is called upon to investigate losses of personal property in provincial correctional facilities with a view to recovery or provision of compensation.

When Mr. G was admitted to a correctional facility, he had five pieces of jewelry. The staff recorded each item in accordance with the Ministry of Correctional Services guideline. After Mr. G was sentenced, he was transferred to another institution, where staff again inventoried these belongings.

When Mr. G was transferred to a third facility, he did not have the opportunity to examine his property either upon his departure or his arrival. He signed the property sheets without being able to verify his belongings. Shortly before his release, Mr. G asked to see a copy of his file. He immediately noticed that the third institution had not recorded his jewelry. When he complained, the third institution said he would have to take his complaint to the second institution.

When Mr. G was released, he did complain to the second institution, but without success. He complained to the Ombudsman about the loss of his property.

The Ombudsman's investigation revealed that Mr. G did not have any access to his property after it was taken from him upon admission to the very first facility. Since the Ombudsman concluded that the Ministry should be responsible for providing reasonable care for inmate property, she recommended that the Ministry negotiate an agreement with Mr. G. The Ministry accepted the recommendation, and arrived at a financial settlement with Mr. G.

Even an informal resolution of an individual's complaint can bring about wide-ranging remedial action which can benefit many others when the Ombudsman's process identifies problems at an early stage, permitting the governmental organization to take appropriate action in a timely fashion.

Mr. N purchased magazines while he was confined in a jail. When he was moved to a detention centre, the magazines were taken from him to be held with other personal property until his release. While he was at the detention centre, he purchased an eraser and a soap dish. When he was subsequently transferred to another jail, these items were also taken from him to be held until his release, because this institution did not sell or allow inmates to have these items in their possession.

The Ombudsman contacted the regional office of the Ministry of Correctional Services. The Ministry reported that while the Ministry establishes a basic canteen list, individual institutions may add to the list. The Ministry agreed that the lack of consistency at the various institutions was a source of frustration for the inmates. It undertook to discuss this matter with the Superintendents in the region.

In investigations of tribunals, the Ombudsman reviews the process by which a decision is reached.

Mr. P complained to the Ombudsman that the Workers' Compensation Appeals Tribunal (WCAT) had unreasonably refused to increase his permanent pension for noise-induced hearing loss.

She found that several factual errors seemed to have been made by the original panel which considered Mr. P's claim. Among these errors were overlooking relevant Workers' Compensation Board policy and incorrect evaluation of the medical reports of Mr. P's hearing loss.

When the Ombudsman wrote WCAT of her tentative conclusions, it appointed a new Panel to consider the matter. Following its review, the Panel found that the Ombudsman's concerns with the original decision were valid. It directed that reconsideration be granted, and a new hearing be held.

Sometimes persons living in other provinces request the Ontario Ombudsman to assist with problems involving Ontario governmental organizations.

Mr. U lived in Quebec. He was the beneficiary of a family support order which had been issued in Quebec. However, the funds were being paid through the Family Support Plan in Ontario.

Mr. U had received notice from the Ontario Plan that enforcement was to be suspended pending verification from the Quebec Plan that Mr. U continued to be entitled to receive ongoing support and accumulated arrears. Mr. U was not aware of any reason why his eligibility should be suspended. He asked the Ombudsman to investigate.

The Ombudsman made informal inquiries with the Ontario Plan. The support payer had written compelling letters and supplied accompanying evidence claiming that Mr. U was no longer entitled to receive support. The Ontario Plan discontinued attempts to obtain a wage deduction order pending verification from Quebec that Mr. U's eligibility did continue.

The Ontario Plan said its usual policy was to continue enforcement until confirmation is received from the support recipient that entitlement to support has ended. In this case, however, the support payer's letters were so strongly compelling that the Plan had used discretion to stop enforcement.

The Ombudsman's investigation determined that the legislation governing the Plan required the Director to "continue to enforce support obligations . . . until he or she receives a copy of the court's decision terminating the support obligations."

After further discussions, Plan officials conferred with legal counsel. As a result, the Ombudsman was informed that the Plan would continue to enforce the Support Order and to make payments to Mr. U. The support payer was informed that if she wished to vary or terminate her obligation to support, a court order was required.

Sometimes public servants ask the Ombudsman for assistance in relation to complaints regarding their employment.

Mr. H came to the Ombudsman with a number of complaints about the Ministry which employed him. First of all, he was dissatisfied with the manner in which the Ministry had administered his benefits following his injury at work. Second, he was dissatisfied that upon his return to work after being on Workers' Compensation he was placed in another position which involved travelling and otherwise was not appropriate to his physical condition at the time. Third, he objected that when he requested to buy his pension credit, the processing was delayed. Finally, he contended the Ministry had withdrawn money from his bank account without notice to him. Mr. H was once again receiving Workers' Compensation benefits.

During the course of the Ombudsman's investigation, the Ministry agreed that some administrative errors had been made with respect to Mr. H, but that the errors were subsequently rectified. Nonetheless, the Deputy Minister wrote to Mr. H to apologize for the errors, and to set out steps which the Ministry had taken to improve its management of Workers' Compensation claims for all injured staff. With regard to the pension issue, the Ministry acknowledged there was a delay in processing, and provided Mr. H with the reasons. The overall problem was rectified.

Mr. H then wanted assurance regarding his future work relationship with the Ministry. The Deputy Minister again wrote to him to provide him with assurances should Mr. H be able to return to work.

The Ombudsman's investigation was unable to support Mr. H's allegations regarding the withdrawal of money from his bank account or his placement following his return to work.

Sometimes the Ombudsman can bring together complainants and staff of government agencies so that they can resolve problems at an early stage.

Mr. K contacted the Ombudsman over a dispute with Family Support Plan officials who insisted he owed them nearly \$4,000. Mr. K's own calculations showed he had actually overpaid the program by \$1,000.

The Ombudsman suggested that Mr. K should first try to work out the problem with the officials. He engaged in several exchanges of correspondence, but he was unsuccessful in reaching a resolution or in obtaining an explanation of how the arrears had been calculated.

Although the program does not normally allow for meeting with complainants directly, the Ombudsman encouraged the Enforcement Manager assigned to his case to meet personally with Mr. K in an effort to help him understand how FSP had calculated the arrears.

Persons who live in Ontario's small towns and northern communities often find themselves isolated from assistance which people in urban areas take for granted and they turn instead to the Ombudsman's district offices for assistance.

Mr. P was discharged from a general hospital in August, 1992. His finances were in the hands of the Public Trustee, however, and although \$300 was released to him, this was not sufficient for him to find an apartment. As a result, Mr. P said he could not leave the hospital.

The hospital's social services department attempted to remedy the situation, but it was unsuccessful. Finally, after Mr. P had remained in the hospital four weeks after his discharge, the hospital called the Ombudsman's district office on Mr. P's behalf.

The Ombudsman's staff made informal inquiries and clarified the situation with the Public Trustee's office. As a result, sufficient funds were released to Mr. G so he could rent an apartment and leave the hospital.

Calvin Blackwood
Investigator



Sometimes people encounter problems as a result of combined errors of several different governments, and the Ombudsman can coordinate the efforts of officials at all levels to resolve the issue.

One such case involved the Family Support Plan (FSP) in Ontario, and the same office in another province, the Unemployment Insurance Commission, the federal Department of Justice, and Canada Post.

Mr. A's federal unemployment insurance cheque had been withheld for processing of family support deductions for arrears from a federal garnishment order obtained by the provincial FSP.

Mr. A had insisted that the recipient of those deductions had withdrawn from the plan, that he had been making payments directly, and he was not in arrears. He produced cancelled cheques and a copy of the withdrawal letter to support his contentions. He also felt it was unfair that he had not received any prior notice of the proposed action by the FSP.

Mr. A asked the Ombudsman to investigate. It was determined that the Ontario Family Support Plan was seeking to correct arrears for another provincial plan. This plan thought Mr. A was ignoring its letters, since they had never been returned. A check revealed the local postmaster had been saving the letters awaiting Mr. A's eventual return. Mr. A picked up the old mail, and confirmed the closing of his post office box.

That mystery solved, the Ombudsman contacted the Family Support Plan in the province where the recipient resided. It was determined that the recipient had indeed received the payments, that the account was not in arrears, and she had withdrawn from the Plan.

This information was then communicated to the Ontario FSP, which in turn advised the Federal Department of Justice to withdraw the Garnishment Order so that the Unemployment Insurance Commission could pay Mr. A his full benefits. The funds which had been garnisheed were returned to him.

As a resident of Ontario who is over the age of 65, Mr. K had been receiving benefits under the Ontario Drug Benefit Program. In preparation for a move to another province, he contacted the Ministry of Health, and applied for a transfer of his Ontario Health benefits. By doing so, he thought his Ontario benefits would remain active for three months after the move.

However, the three-month transition applied only to Mr. K's hospital and medical benefits. The medicine benefits are normally terminated at the end of the month in which a person ceases to be resident in the province. When he learned he would not be reimbursed for medicines he purchased soon after the move to the new province, Mr. K complained to the Ombudsman.

When the Ombudsman contacted the Ministry, it agreed the different rules for the two plans might not have been clear to Mr. K, leading him to expect he would be covered for the medicine he purchased. The Ministry agreed to provide "special reimbursement" according to the rules of the Program.

The Minister of Housing issued an Order requiring Ms. F's landlord to suspend and forfeit rents because of non-compliance with substantial maintenance standards identified by the Residential Rental Standards Board. The landlord subsequently appeared before the Rent Review Hearings Board, which overturned the Minister's order. Ms. F felt the Hearings Board was unreasonable in its decision, and asked the Ombudsman to investigate.

In investigating a tribunal, the Ombudsman investigates the manner in which it arrives at the decision, rather than the decision itself. She reviewed the information which had been before the Board, as well as the information which it had relied upon in reaching its decision.

The Ombudsman learned that the landlord had informed the Board that the maintenance items had been substantially completed, and a municipal bylaw enforcement officer had given evidence supporting this fact. Ms. F had not appeared at the hearing to give any evidence to the contrary.

The Ombudsman concluded that, on the basis of the information before the Board, its decision to overturn the Minister's Order was not unreasonable.

Ms. F had also complained that the Board had failed to accept her request for a postponement of the hearing and to have the matter heard by a three-member panel. The Board felt Ms. F's reasons did not justify the postponement, and the request was not made in a timely fashion.

The Ombudsman concluded that the denial of the postponement was not unreasonable. However, she did suggest to the Board that the information it provides to applicants could be made clearer in terms of setting out the time limitations for making a request for a three-member panel to hear an appeal.

When Revenue Canada told Ms. G she owed income tax from a previous year because she had not declared \$2,500 as shown on an income statement provided by the Government of Ontario, Ms. G wanted to track the statement down. Unfortunately, the payor number which would identify which government agency had issued the statement had been inked out.

Ms. G asked an Ombudsman's District Office for help. The Ombudsman in turn called upon the assistance of the Ministry of Government Services, the Ontario Pension Board, and the Ministry of Labour. It was discovered that Ms. G had been issued a cheque under the Employee Wage Protection Program, but she had never received either the cheque or the statement enclosed with it because she had moved. Ms. G had assumed she had not qualified under the Program.

The Ombudsman's staff told Ms. G how a second cheque could be issued to her. Ms. G said she planned to inform her former co-workers and her former union of her good fortune, as she believed others had also not received their cheques.

An unfair settlement imposed or coercion applied

Persons may complain to the Ombudsman because they consider their treatment by a governmental organization to be oppressive.

Ms. V had obtained a court order obliging a Housing Authority to transfer her and her son to a housing unit within 90 days. When the Authority failed to comply with the order, Ms. V complained to the Ombudsman. She also complained that the conduct of the Authority employees towards her was unreasonable, and that allegations against her of non-payment of rent were untrue.

The Ombudsman investigated, and found sufficient information to support Ms. V's contentions. The Ombudsman found that the behaviour of the Authority fell below acceptable standards of conduct for a governmental organization. The Ombudsman recommended that the Authority issue a letter of apology to Ms. V and compensate her with a \$500 payment for the unsettling effect of unacceptable behaviour by Authority personnel. The Authority agreed to implement the Ombudsman's recommendations.

Sometimes the Ombudsman's intervention can resolve problems which go beyond the actual complaint.

Ms. G, a recipient of Workers' Compensation benefits who had a large family and low income, complained to the Ombudsman of delays in receiving her compensation cheque.

The Ombudsman inquired, and the cheque was issued. However, Ms. G had been previously overpaid by Unemployment Insurance and Social Assistance, and those agencies were recovering those amounts by attaching Ms. G's Workers' Compensation benefits. Under these circumstances, Ms. G would have been left with no income from any source for several months.

In reviewing the situation, the Workers' Compensation Board acknowledged a mistake had been made in organizing a proper deduction schedule. It re-evaluated Ms. G's monthly entitlement to ensure that deductions would not cause undue hardship.

Zalina Deodat
Administrative Assistant



Sometimes it is necessary for the Ombudsman to take her recommendations to the Premier when a governmental organization refuses to implement them.

Ms. Q sustained flooding damage to the tourist camp she owned when a provincial government organization released ice from an upstream culvert. She submitted a damage claim. The agency conducted an internal investigation, and concluded that while it had caused waters to be released from the culvert, it was not responsible for the flooding damage. Ms. Q asked the Ombudsman for help.

The Ombudsman reviewed all circumstances present on the day of the flooding incident. Several factors were identified which led her to conclude the decision to deny compensation to Ms. Q was unreasonable. The governmental organization took seven months after receiving the Ombudsman's tentative conclusions to conduct an engineering study. The Ombudsman's review of the study did not give her reason to alter the recommendation that compensation be paid to Ms. Q and she issued a final report. When the agency still refused to implement the Ombudsman's recommendation, the Ombudsman took the matter to the Premier. Shortly afterwards, the agency informed the Ombudsman that her decision that Ms. Q be remunerated would be implemented.

During a holiday in northern Ontario, Ms. H's truck and trailer were badly pitted as a result of very poor and hazardous road conditions along a section of highway under construction. Ms. H drove as carefully as she could, but damage occurred nonetheless. Ms. H asked the Ministry of Transportation to compensate her for the damages. The Ministry disclaimed liability, stating that the road's condition was the responsibility of a private company doing the construction work. When the Ombudsman notified the Ministry of her intention to investigate, the Ministry reviewed the matter, and found that at the time the damage occurred, the contractor had experienced mechanical problems with equipment used to make the roadbed. This equipment failure could have contributed to the damage. The Ministry agreed to pay Ms. H's claim.

*When an OPP officer harassed her daughter and then lied about his conduct, Ms. O complained to the OPP. Her complaint was sustained. She was upset when she learned the officer had received counselling and a verbal reprimand since she believed that the misconduct required a more severe penalty. After her investigation, the Ombudsman concluded that the penalty was in fact inadequate. However, because of the accepted principle that an employer may not impose more than one penalty for the same offence, the Ombudsman could not recommend a more severe penalty should be applied in this specific instance. The Ombudsman did recommend that OPP members responsible for conducting investigations of public complaints should receive additional training focusing on the special requirements of policing in small communities, the need to be sensitive to the public, and the importance of applying a penalty to reflect the seriousness of the misconduct. The Commissioner of the OPP agreed to implement this recommendation by having an expanded training session for members responsible for reviewing public complaints. As well, the lowest possible penalty became an admonishment consisting of verbal counselling and a notation to be placed on the officer's record for two years. Since Ms. O filed her complaint, the *Police Services Act* was passed, and now, all public complaints are reviewed by the Commissioner, who is responsible for determining the appropriate penalty.*



**An inadequate
or improper
investigation
was conducted**

Unreasonable delay

Ms. N had experienced several delays in obtaining her Ontario Student Assistance Program funding. When she was told she would not be allowed to write her final exams the following week if the cheque did not arrive, Ms. N contacted the Ombudsman's district office for assistance. After several calls, the Ombudsman's staff was able to advise Ms. N the cheque would be in her hands by the end of the week so she could complete her academic year.

Ms. O was notified that an overpayment was about to be deducted from her disability pension. She advised her caseworker that she wished to contest the deduction, and that in the meantime, the size of the deduction being made would cause her hardship. The caseworker agreed to make an amendment of the amount, and a cheque was to be issued to cover the excessive amount already deducted.

When weeks passed and the cheque had not arrived nor had the Social Assistance Review Board hearing been scheduled, Ms. O contacted the Ombudsman's district officer in her area. The Ombudsman's staff made inquiries. Arrangements were made for the refund cheque to be issued. Also, the application form for a Review Board hearing was provided since Ms. O was unaware that formal application was required.

Two students, Ms. Q and Mr. R, awaited Ontario Student Assistance Plan (OSAP) funding while they began classes at a private vocational school. When the funding continued to be delayed, the school began to charge 2% compounded monthly interest on the late payments. Ms. Q had accumulated \$1,400 in late payment fees before the funding finally came through.



Tim Arkell
Investigator

The students complained to the Ombudsman about the delays. The Ministry of Colleges and Universities, which is responsible for OSAP, told the Ombudsman the delay the students had encountered was only one month more than normal. It reported that publicly-funded colleges and universities waive late payment fees for students awaiting OSAP funding, but there is no regulation which obliges private schools to offer the same kind of waiver.

The Ministry offered to speak to the operator of the private school to see if a negotiated settlement could be reached. In both cases, the students received partial reimbursement of the penalties they had been charged.

Mr. and Ms. C had recently immigrated to Canada. Their previous drivers' licences were about to expire. However, when they went to the Ministry of Transportation to obtain new licences, they were advised they would have to wait a couple of months before they could take their driving tests.

The C's contacted the Ombudsman, since they needed their licences in order to maintain their jobs.

The Ombudsman contacted the Ministry. It agreed to reschedule the tests at a much earlier date.

While some complaints brought to the Ombudsman's district offices require a formal investigation, many others are resolved informally by the district office staff.

Example 1: In November, 1991, Mr. X had filed a claim under the Employee Wage Protection Program with the provincial Ministry of Labour. In the spring of 1992, Mr. X was informed that his former employer was under federal jurisdiction, and that his claim had been transferred to Labour Canada. He asked the Ombudsman's district office for help.

The Ombudsman's staff made inquiries about the jurisdiction for Mr. X's claim, and as a result, the matter was returned to the Ontario Ministry. In January, 1993, Mr. X again contacted the Ombudsman because of unreasonable delays in receiving the entitlement cheque which resulted from his claim. Once again, informal inquiries were made by the Ombudsman's staff. Mr. X received a cheque for \$1,500 within a few days.

Example 2: Ms. Y sent an amendment form with the required fee to the Registrar General's office in December, 1990, so that the spelling of her son's name could be corrected on his birth certificate. Because Ms. Y had not received the new certificate in February, 1992, she contacted her MPP for assistance.

The Member was told the original form had been misplaced, and a second one was provided. This form met the same fate as the first despite two follow-up letters sent by the MPP.

When Ms. Y was told she must submit a third form and pay the required fee once again, she asked the Ombudsman's district office for assistance. Staff made inquiries directly with the Registrar General officials, who found that the requested amendment had indeed been made. A corrected birth certificate was immediately issued without payment of any further fee.



Insufficient reasons for decision or no reasons given

Sometimes the Ombudsman can assist persons to obtain sufficient reasons from a governmental organization as to why a decision was made.

Several persons contacted the Ombudsman regarding a decision of the Ministry of Municipal Affairs to approve a resource extraction permit for a local brick company. The decision had reversed the recommendation of a hearing officer from the Niagara Escarpment Commission. The complainants had concerns both with the process by which the Minister arrived at a decision, and the potential environmental effects of the decision. A development permit had already been issued and construction was underway.

The Ombudsman's investigation determined that while the Ministry of Municipal Affairs was responsible for the Niagara Escarpment Commission when the decision had been made, the Ministry of the Environment had assumed responsibility for the Commission. She expressed her concerns to both ministries and her finding that the Minister of Municipal Affairs had not provided any reasons for his decision.

The Ombudsman recommended that adequate reasons addressing all relevant planning and environmental issues should be given when decisions are made. The Ministry of the Environment agreed with the recommendation, and advised it is now providing reasons for any decisions which are contrary to the recommendations of a Hearings Officer. The complainants also received reasons why the hearing officer's decision had been reversed.

Fairness means that a person should be given reasons as to why a governmental organization made a decision which affects that person.

Mr. D had requested on behalf of an organization that a provincial transportation agency lease it certain equipment. The agency refused the request. Mr. D asked the Ombudsman to investigate the refusal.

The Ombudsman did investigate, and found that the agency had acted reasonably in refusing the request. However, she found that the agency should have provided adequate reasons for rejecting the request, and it had not done so. The agency agreed to provide Mr. D a comprehensive explanation of the rationale for its refusal, and also clarified the conditions under which it would lease its equipment.

Ms. B complained to the Ombudsman that the Public Trustee had refused to honour a commitment it had made to her.

When Ms. B had been asked to travel from her home in the U.S. to Ontario to help convince her elderly mother to accept medical attention, she had asked the Public Trustee if travel costs could be covered from her mother's account. At that time, the Public Trustee had just been appointed to look after her mother's affairs.

The Public Trustee agreed to cover the costs. However, it asked Ms. B to wait for reimbursement, since the paperwork covering the Public Trustee's appointment had not yet been completed. When Ms. B did apply, the Public Trustee did not pay her claim. That's when Ms. B came to the Ombudsman.

The Public Trustee's office was contacted informally about the matter. The matter was reviewed, and a cheque for \$900 was issued to Ms. B that same week.

In order to determine whether an undertaking by the Ministry of Natural Resources to manage timber operations over 60% of Ontario's land area should be approved, it was necessary to assess the environmental effects of the undertaking.

To accomplish this process, a class environmental assessment was begun by the Environmental Assessment Board (EAB). So that persons other than proponents of the program could be heard, intervenor funding was made available through two Orders in Council. A funding panel of the EAB decided how these funds should be allocated.

When the complainant received the reply to its application for funding, it felt the Funding Panel's decision was biased and grossly unfair. It asked the Ombudsman to investigate.

The Ombudsman found no bias or unfairness in the Funding Panel's decision. However, she found that the wording of the Funding Panel's decision could have been interpreted to mean that certain ineligible expenses would be considered for reimbursement. Since one of the prime causes of complaints to the Ombudsman is unclear wording in decisions, she brought this to the Board's attention.

The EAB agreed that the decision of the Funding Panel should have been more clearly worded.

The Ombudsman is often called upon to investigate an individual's dispute with government that requires consideration of the interests of others.

Mr. W contended that his boathouse had been damaged during the spring melt by shifting ice and high water levels. Mr. W believed a Ministry had been negligent by failing to open a dam to lower lake levels. The Ministry had rejected the claim, saying it had acted properly.

Mr. W asked the Ombudsman to investigate. The investigation revealed that the Ministry adhered to an operating plan for the dam which had been agreed upon by the many cottagers affected by its operation. In fact, no manual control of the water level was required. The excess water simply flowed over a retaining wall when its level reached the top of the wall. The Ombudsman also determined that the spring melt had started early, and was slow and drawn out, resulting in only a marginal increase in the level of the area lakes. With the exception of Mr. W, no other cottage-owner had complained about high water levels or reported damage.

As a result of her investigation, the Ombudsman informed Mr. W she could not support his complaint that the Ministry had acted unreasonably in rejecting his claim.

When Mr. O asked to have hydro service extended to his year-round residence, Ontario Hydro informed him that it required at least four customers for any line extension. Mr. O found three neighbours who also wanted electricity, and a written request was filed. Ontario Hydro then replied that each customer must be wired, inspected, and approved for connection before it would consider extending the line.

Mr. O felt this was unfair, since he would have to go to considerable expense without any assurance that the line would be extended. He asked the Ombudsman to investigate.

When the Ombudsman advised Ontario Hydro of her intention to investigate the matter, the corporation reassessed the circumstances, and based on the written commitment of Mr. O and his neighbours to connect to the line, decided to proceed with the line extension.

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**Denial
of service**



Failure to keep a proper record

Mr. and Ms. L had paid a municipal planning fee regarding some property they owned. When they were told they were asked to pay a similar fee a second time, they considered it unfair and appealed the matter to the Ontario Municipal Board. The Board refused to hear the appeal, saying they had no jurisdiction to hear the matter since the K's had not filed for an appeal within a specified 30-day time limit. They complained to the Ombudsman. The Ombudsman's investigation determined there was a discrepancy between the actual date the fee had been paid to the municipality and the date they had given to the Board. The appeal had actually been filed within the 30-day limit.

When it was informed of this, the Board readily agreed to hear the appeal.

Ms. M's annual pension statement from a provincial governmental organization had failed for three straight years to reflect her purchase of additional pension plan credits.

She asked the Ombudsman for assistance. During the investigation, the administrator of the plan was able to diagnose the problem as a computer systems error.

The problem was immediately corrected, and an accurate statement was produced and provided to Ms. M. In addition, the administrator placed Ms. M's name on a test file list which will be verified manually each year to ensure its accuracy.

Ms. J lived in a remote northern community. She contacted the Ombudsman's district office because the Ministry of Community and Social Services was trying to collect an overpayment. She reported the Ministry had informed her by letter the overpayment had occurred because she had received social assistance funds for her child when in fact the child was not in her care. Ms. J insisted this was wrong, because she had always looked after her son and they had always lived together.

The Ombudsman's staff made informal inquiries with the governmental organization responsible for the collection. It confirmed Ms. J's description of the problem. A supervisor with the Ministry gave further confirmation. Because the two versions still conflicted, the Ombudsman's staff persisted in making inquiries. Ms. J's caseworker cleared the matter up when she advised that the overpayment had occurred when Ms. J married and continued to receive benefits as a single parent for two months. The letter Ms. J received had contained the wrong reason. While the overpayment continued to stand, the Ministry agreed to send Ms. J a letter advising her of the correct reason. She was also advised of her rights to appeal the Ministry's decision if she chose to do so.

At times, a governmental organization may agree to correct an inaccuracy which the Ombudsman brings to its attention, making a formal investigation unnecessary.

Mr. I was receiving unemployment insurance benefits when deductions for family support payments began to be made from his cheques. He was puzzled, because he was 68 years old and had no children who would qualify for family support. Mr. I lives on a remote First Nation reserve, and does not speak English, so he asked the Chief to take the matter to the Ombudsman's district office.

The Ombudsman's staff made informal inquiries with the Ontario Family Support Plan, but it did not have any file on Mr. I. Inquiries were then made with Unemployment Insurance, where it was determined that the support order which triggered the deductions from Mr. I's cheques had been placed by the British Columbia Family Maintenance Office. Mr. I's funds had been withheld because he had supplied an erroneous Social Insurance Number to the Unemployment Insurance Office.

After numerous calls and diligent tracking, Mr. I received a full refund of over \$1,300 from Unemployment Insurance to replace the incorrect deductions. As for the family support recipient who had received the bonanza, she had already spent the money and since the error was not hers, she was not asked to pay it back.

Sometimes the Ombudsman can remind a governmental organization that it may not have used all the powers available to it under legislation.

The T Cottage Association was concerned that a dam built 20 years earlier was not safe, and that they were endangered. It asked the Ministry of Natural Resources to take action. The Ministry's position was this was a private problem between the cottagers and the owner of the dam.

The cottagers asked the Ombudsman to investigate. Her investigation found that when the dam was constructed, the Ministry had not obtained proper specifications from the owner as is required under the provisions of the *Lakes and Rivers Improvement Act*. Furthermore, a geotechnical study which had been commissioned by the Ministry a few years after the construction had indicated that the project should be reviewed again in the next 5 to 10 years. That period of time had passed.

The Ombudsman raised these facts with the Ministry. The Ministry in turn arranged meetings with the cottagers so that the owner of the dam could have the opportunity to work out a cooperative solution to the problem. The Ministry also undertook to use the powers available to it under the *Act* against the owner if a solution could not be reached informally.

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**Omission to
monitor or manage
an agency for
which the
governmental
organization is
responsible**

Failure to provide sufficient or proper notice

The Ombudsman's involvement in resolving an individual's complaint can sometimes result in policy improvements which benefit many other persons.

Ms. G and Ms. H each had their own complaints about the Ministry of Natural Resources' approval of the sale of land by a Conservation Authority to private interests. Both had previously sold some of these same lands to the Conservation Authority for the purpose of environmental conservation. Each brought her complaint to the Ombudsman independently of the other.

When the Ombudsman investigated the complaints, she found that the Ministry had approved the sale of the lands to private interests without requiring that adequate notice be given to prospective purchasers. The Ministry agreed to revise its land disposition policies governing the sale of lands by Ontario's Conservation Authorities to ensure that adequate notice is given.

Sometimes the Ombudsman begins an investigation on her own initiative. One of the reasons the Ombudsman may take this action is when a number of similar complaints are received about a governmental organization. Another reason is that there may be reason for the complainant to remain anonymous in reporting a generic situation.

Mr. O, an independent contractor, felt that a Ministry's system of renting trucks and equipment through telephone tenders was unfair, but he feared losing future contracts if he complained to the Ombudsman.

The Ombudsman decided to investigate the matter on her own initiative. After reviewing the existing practices in a number of Ministry offices, the Ombudsman concluded that the telephone tendering practice was not unfair. The system was designed to allow the Ministry to react quickly to urgent and unexpected situations where long delays associated with written bids could damage the public interest.

However, the Ombudsman did find several means through which the system could be improved. Among them was the suggestion that the Ministry advertise annually to ensure that the list of suppliers to be called for a bid was as comprehensive as possible. The Ministry agreed to adopt the Ombudsman's suggestions.

Sometimes the Ombudsman is asked to investigate complex webs of legislation which have entangled persons attempting to assert what appears to be a simple right.

Ms. X had been employed by a ministry in 1989 when she inquired about purchasing pension credits for a period of past federal public service. The purchase, made under the *Public Service Superannuation Act*, would have given her a pension credit date prior to January 1, 1966. Persons whose credit date is prior to that time have their pension calculated on the basis of the average of their best three year's salary, rather than the five-year basis used for persons whose credit date is 1966 or after. For Ms. X, that meant her pension would be higher.

Ms. X made her application to purchase the pension credit on January 17, 1990. However, just 16 days before, on January 1, 1990, the *Public Service Pension Act* had come into effect, replacing the *Public Service Superannuation Act*. Under the new law, the three-year calculation guarantee was limited to members purchasing credit for past Ontario public service. Since Ms. X's past service had been federal, not provincial, she was no longer eligible for the three-year guarantee.

Ms. X appealed the matter to the Ontario Pension Board. Her appeal was denied as the Board did not have authority to change the effective date of an application.

However, in July, 1991, the Pension Board did write to the Management Board Secretariat, the provincial pension plan sponsor, asking if it would consider the special circumstances of Ms. X's situation. The Management Board Secretariat was asked to consider the fact that Ms. X had not been informed when she received information about the pension buy-back that amendments would take effect on January 1, 1990. The Pension Board noted that the plan sponsor has an obligation to inform members of amendments to the plan which may adversely affect them.

The Management Board Secretariat agreed to look into the matter, but by August, 1992, Ms. X's situation still was not resolved. That's when she asked the Ombudsman to investigate the delay.

The Ombudsman wrote to the Management Board Secretariat of her intention to investigate. In September, it advised that it was prepared to offer Ms. X compensation in settlement of her claim. After the details were worked out, Ms. X accepted the offer and considered the matter resolved.

Mr. P was a real estate salesperson whose licence was terminated by the Registrar acting under the Real Estate and Business Brokers Act. The termination occurred because the broker who employed Mr. P erroneously included his name on a list of employees who had been terminated. When Mr. P discovered his licence had been terminated, he asked to have it re-instated. However, since some time had passed, Mr. P was told he had to take the licensing courses all over again. He also wanted to apply for a broker's licence, but he was told that, because he had been unlicensed as a salesperson for a long period of time, he would have to wait.

Mr. P complained to the Ombudsman. He believed the Registrar had been unreasonable in failing to notify him when his licence was terminated, in concluding that he did not meet the requirements to become a broker, and in failing to take into consideration the circumstances that had led to the termination of his licence.

After a thorough examination of the facts and the legislation, the Ombudsman came to a tentative conclusion that the Registrar had been unreasonable in failing to ensure that persons are notified when their licences are terminated. Her tentative recommendation was that the Ministry implement corrective measures.

The Ombudsman was satisfied with the Ministry's agreement to revise the notice sent on termination by a broker to the Ministry so that the signature of the salesperson concerned will be required. This procedure would significantly lessen the risk of accidental termination.

The Ombudsman also found that, regardless of the initial error to terminate Mr. P's licence, he had failed in his own responsibility to renew his licence for two consecutive periods following what would have been the normal expiry date of his licence. Accordingly, the Ombudsman concluded that the Registrar had not been unreasonable in finding that Mr. P could not qualify for registration as a broker as he had not been a licensed salesperson for two of the three preceding years.



Quick Resolution

Cases:

When a case requires the correction of a simple error, the Ombudsman can often get a fast response.

Example 1: Ms. N contacted the Ombudsman because his permanent disability pension had been cut due to a re-evaluation by the Workers' Compensation Board. The adjudicator had not warned him of this consequence.

The Ombudsman's staff contacted the adjudicator, who said the pension cut had been done in error, since benefits are not supposed to be cut while the assessment was in progress. Ms. N's pension was reinstated.

Example 2: Mr. O contacted the Ombudsman regarding an error that was made in calculating the amount that was owed to him by his former employer.

The Ombudsman's staff contacted the manager of the Employment Standards Branch. It was discovered that an error had indeed been made, and Mr. O would receive a second certificate for the Wage Protection Program for the amount not included in the first certificate.

Example 3: The Housing Authority where Ms. J lives had delivered a letter informing her that all doors and windows in her unit would be replaced the following day. She was told she must be present to let the workers in, and to remain with them until the work was completed.

Ms. J was distressed, because the December weather was quite cold. As an elderly person with a coronary condition, she was worried about aggravating her respiratory problems.

When Ms. J could not reach anyone in the Housing Authority office, she called the Ombudsman's district office. The staff contacted the general manager of the Housing Authority, who agreed to wait to replace Ms. J's doors and windows until warm spring weather had arrived.

Example 4: From his home in northern Ontario, Mr. I had applied for an advertised position with a Ministry. He received an acknowledgement letter, but the letter did not have an address or phone number for the competition contact person. He complained to the Ombudsman that this information should have been provided.

The Ombudsman spoke with the Ministry's human resource advisor. As a result, an apology was provided to Mr. I, and preventative procedures were implemented so as to avoid the situation in the future.

All Ombudsman offices are equipped with a TDD (Telephone Device for the Deaf), consisting of an electronic typewriter for sending a message and a screen on which the message appears.

Many persons with speech or hearing disabilities use the TDD to communicate with the Ombudsman's staff.

Case 1. Ms. P contacted the Ombudsman's staff about the environment in which she is raising her two young sons and about the inadequacy of her small one-bedroom public housing unit. She wished to move to another area where she would be closer to her immediate family, but she had been told there was a two-year waiting list.

The Ombudsman's staff made informal inquiries. As a result, Ms. P was assessed again and was placed on a priority list for a two-bedroom apartment.

Case 2. Mr. Q contacted the Ombudsman's office. He felt his human rights were violated because meetings at city hall in his municipality did not have closed captioning. The city council had already agreed to purchase monitors and equipment, but there were no funds to buy the production services from the local cable company.

The Ombudsman's staff was able to provide several contacts and referrals to Mr. Q which he could pursue.

Case 3. Ms. R contacted the Ombudsman's office. She described problems she and neighbours were having with the owner of the residential trailer park where they lived.

The Ombudsman's staff was able to provide Ms. R with information about agencies and organizations who might be able to provide support or take action on complaints of this sort.

◆ Among the means employed by the Ombudsman's Office to ensure that services are available to all persons in Ontario are Telephone Devices for the Deaf.

Judith Lee
General
Accounting
Clerk





An advantage of the Ombudsman's district offices is that staff are aware of an area's special circumstances, and provide easy access to residents.

Example 1: Mr. C and Mr. D had both experienced the devastating effects of plant closures. When their employer shut down operations fourteen months earlier, they had each applied to the Ministry of Labour for their severance pay in lieu of notice. They waited expectantly for the \$5,000 each would receive.

When Mr. C and Mr. D. came to the Ombudsman's district office, some time had passed and the Ministry still had not processed their claims. They were suffering from financial hardship, since neither had been able to get another job.

The Ombudsman's staff contacted the Ministry, which said it had been swamped with a large number of claims. However, it said it would review and monitor the progress of these applications. By the end of the month, Mr. C and Mr. D had their cheques.

Example 2: Mr. E contacted the Ombudsman's district office in his area because he had been trying unsuccessfully for 13 months to obtain his Cook's Diploma from the Ministry of Skills Development. He needed the document for employment purposes.

The Ombudsman's staff contacted the Ministry, which forwarded the Cook's Diploma by priority post to Mr. E the same day.

Example 3: Mr. F was one of the many people who walked into the Ombudsman's district offices to ask for assistance. His wife had died five years previously, and he was still unable to get his application processed for survivor's benefits. The problem was that he could not obtain a record of his marriage from the Registrar General because Mr. F could remember only the year of his wedding, but not the date.

Chatting with the Ombudsman's staff about the problem, Mr. F mentioned that there were leaves on the ground when he married. The Registrar General was called and asked to conduct a search of the autumn months. The search was successful, and a certified copy of the Marriage Certificate was sent to Mr. F so he could proceed with his pension application.

Example 4: The Ombudsman's district officers often hold "clinics" where persons can discuss their complaints with them. At one such clinic, Mr. L told the district officer that his residence in an outlying area meant he must travel some distance to reach a needed speech therapist. This situation was complicated by his attendance at a daytime vocational training program. He was often too tired in the evening to travel to his therapist's office.

Mr. L knew there was another therapist much closer to his home, but he was not in the age range of patients seen by this therapist. While this situation did not involve any complaint against a provincial governmental organization, the Ombudsman's district officer contacted the local health unit. It agreed to look into the situation and to provide the accommodation necessary so Mr. L could have the needed service in a much more accessible way.



**The Ombudsman
often encounters
cooperation from
governmental
organizations.**

The Ombudsman's intervention may encourage a governmental organization to accept a solution to a problem which has been proposed by a client.

Mr. H, a tourist lodge operator, was upset when Ontario Hydro threatened to disconnect electricity to his lodge because his account was \$1,200 in arrears. He considered this unfair because another provincial agency, the Ministry of Northern Development and Mines, owed him \$7,500. Mr. H asked the Ombudsman to investigate.

The Ombudsman contacted the Ministry, which confirmed that Mr. H was indeed owed \$7,500, but payment could not be processed for another two weeks. The Ombudsman contacted Ontario Hydro, and asked if it would agree to delay termination of Mr. H's electrical service for another two weeks. It agreed to do so.

Two weeks later, the Ombudsman followed up on the matter. Mr. H indicated his cheque from the Ministry had arrived, and the Ontario Hydro arrears had been paid in full.

The Ombudsman's services are sometimes used by First Nations who experience problems with a provincial governmental organization.

The Z First Nation had recently received federal recognition and agreement had been reached regarding lands to be set aside as a reserve. A popular camping ground is located on those lands for which the First Nation intended to charge a \$5-per-night use permit, but campers were arriving with provincial camping permits and no information that the First Nation was now in charge. It decided to post the property to advise campers of the change.

However, the Ministry of Natural Resources advised the First Nation that while it was true agreement had been reached on the land transfer, the lands had not yet been designated as reserve lands under the *Indian Act*. For this reason, the Ministry said, the First Nation did not have the right to charge fees or post signs.

The First Nation asked the Ombudsman's district office for assistance. At the suggestion of the staff, the Ministry agreed to issue a land use permit to the First Nation to allow for the posting and fees pending official reserve land designation. A circular was sent to all local camping permits sales locations so that purchasers would be advised of the new arrangement.

Sometimes when the Ombudsman is investigating a complaint, an unrelated instance of unfairness is noticed which she can discuss with the governmental organization.

Mr. M complained to the Ombudsman that he had been unfairly found guilty in a misconduct hearing in the provincial institution where he was an inmate. He also complained about how he was treated after the hearing.

While the Ombudsman's investigation did not substantiate the complaint, the Ombudsman was concerned that the adjudicator failed to give Mr. M the opportunity to question a witness during the hearing which had been conducted according to provisions of the *Correctional Services Act*. She reported this to the Ministry. It is now reviewing the hearing procedures in provincial facilities to ensure all accused persons are treated fairly. The Ministry will inform the Ombudsman about the results of the policy review.

◆
**The Ombudsman's
recommendations
may result in
improvements to
a governmental
organization's
internal complaint
process.**

Mr. S complained to the Ontario Provincial Police, asserting he could have suffered severe consequences when he was abandoned by two OPP constables on an isolated roadway. The OPP conducted an internal investigation, but Mr. S was dissatisfied that the constables had only been counselled about their conduct. He came to the Ombudsman for assistance.

The Ombudsman concluded after her investigation that counselling was not an appropriate disciplinary measure for the conduct of the constables. She recommended that OPP officials who conduct internal investigations should receive additional training in applying penalties to officers who have been involved in wrongdoing.

The Ministry of the Solicitor General and the OPP agreed to implement the Ombudsman's investigations, and Mr. S was informed about the improvement made as a result of his complaint.

Mr. A was frustrated because he had not received an acknowledgement of his application for a grant. He asked the Ombudsman for assistance, and the information was obtained. The Ombudsman went further — an investigation was made of the Ministry's acknowledgement procedures. As a result, changes were implemented to improve client services.

A group of public servants asked the Ombudsman for assistance after their Ministry was reorganized. They considered it unreasonable that after a commitment had been given that all classified staff would retain employment, a distinction was made between full-time and part-time personnel. The Ombudsman investigated, and as a consequence, job security rights were obtained for all part-time classified staff of the Ontario Public Service. As well, the Ministry extended its job-offer guarantee to the remaining unplaced part-time staff.

Eric Mézin
District Officer



The legislation providing the Ombudsman her mandate gives her investigative powers only with respect to matters involving provincial government organizations.

However, often people call the Ombudsman about other categories of problems. It is the Ombudsman's policy to make a referral, if possible, to a place where help can be obtained.

Sometimes, the Ombudsman's staff can provide direct informal assistance.

Examples of such situations follow.

Example 1: When Ombudsman's district office staff in a northern area learned that a number of senior aboriginal people were unaware of their possible entitlement to Canada Pension Plan benefits, inquiries were made on their behalf.

It was determined they were indeed likely to be eligible. That information was passed on so applications could be made for the benefits.

Example 2. Mr. M contacted the Ombudsman's district office to complain that the local welfare office had sent him a letter threatening to cut off his benefits, but he did not understand why this was being done.

Even though this matter did not involve a provincial governmental organization, Mr. M is a resident of the province and had asked the Ombudsman for assistance. The district officer called the Mr. M's case worker who said she had been unable to reach Mr. M for the past two months.

When the case worker's concern was mentioned to Mr. M, he said he had been spending his days helping his parents through a difficult medical crisis. The telephone number of his parents was provided. This information was passed on to the case worker, who requested that Mr. M be asked to contact her. This was done, and the situation was resolved.

Example 3: Mr. K contacted one of the Ombudsman's district offices to complain he was unable to apply for Canada Pension Plan (CPP) retirement benefits.

Although Mr. K had worked a considerable time in Quebec, his last nine months of employment had been in Ontario. The Ontario CPP office told Mr. K to call the Quebec office. The Quebec office said call Ontario.

In this case, the Ombudsman's district officer contacted the CPP office, even though it is federal and outside the Ombudsman's formal jurisdiction. It was found that the information given to Mr. K was obsolete. Proper forms were mailed out immediately to Mr. K.

Example 4 Mr. M was lost in a stack of documents needed to complete his income tax form. Everything was there except his Family Support Plan case number—and he didn't know how to obtain it. He asked the Ombudsman's district office to help. Several calls were made, and within an hour, Mr. M had the needed number.

Activities of the Ombudsman Events of the year and international activities

The Ombudsman spoke, presented papers, or appeared at these 1992-93 venues:

York Board of Education
April 9, 1992

Manitoba Educational/Cross Cultural Seminar, Winnipeg
April 10, 1992

St. Catharines Council of Women
April 21, 1992

Environmental Appeal Board
April 27, 1992

North York Board of Education
April 28, 1992

Wabigoon First Nation, Kenora, Vermilion Bay, Dryden
April 29-30, 1992

Brantford Festival of the Arts
May 1-2, 1992

Superannuated Teachers Conference, Toronto
May 6, 1992

York Region Catholic School Board's Human Rights Conference
May 26, 1992

Opportunity for Advancement, Toronto
May 28, 1992

P.U.S.H. AGM, Hamilton
June 6, 1993

Six Nations Decoration Day
June 7, 1992

Standing Committee on the Ombudsman
October 8, 1992

Society of Professionals In Dispute Resolution, Pittsburgh, Pa.
October 9, 1992

International Ombudsman Conference, Vienna, Austria
October 11-16, 1992

Ganohkwa SRA Sexual Assault Conference, Hamilton
November 2, 1992

Christian-Jewish Dialogue of Toronto
November 9, 1992

Marathon High School & Town Office, Pic River First Nation, Manitouwadge Town Office
November 24, 1992

Geraldton High School, Legion Hall, Lake Helen Red Rock Band
November 25, 1992

Workers' Compensation Appeals Tribunal
December 3, 1992

Hadassah-WIZO, Beth Tikvah Synagogue
December 7, 1992

Standing Committee on Public Accounts
January 11, 1993

Children's Psychiatric Research Institute, Robarts School, Middlesex County Building, London
February 11, 1993

Queen's University Faculty of Law, Kingston
February 16, 1993

St. Paul's College, University of Waterloo, Canadian Studies Board
February 24, 1993

University of Windsor, Faculty of Law, Annual George M. Duck Lecture
March 9, 1993

Standing Committee on the Ombudsman
March 11, 1993

Peel Multicultural Council, Mississauga, "Eliminating Racial Discrimination Conference,"
March 29, 1993

In October, the Ombudsman attended the International Ombudsman Conference in Vienna, Austria, where she had been invited to present a paper. The paper dealt with how the work of an Ombudsman might be enriched by the adaptation of traditional means of conflict resolution used by non-Western cultures to deal with issues between public and governments. It also suggested how the Ombudsman concept can be adapted to serve non-Western countries or countries with indigenous populations. Because of the interest shown, a workshop on these issues will be on the agenda for the 1996 International Conference to be held in Buenos Aires.

At the conclusion of the Conference, Ms. Jamieson was elected to the board of directors of the International Ombudsman Institute, an organization dedicated to promoting and improving the practice of Ombudsmanship throughout the world. The Institute is recognized as a non-governmental organization by the United Nations.

The international activities of Ombudsman also assist other countries, including those with whom Canada has considerable trade and social relations, to use the Ombudsman concept to improve human rights and public administration. The Ombudsman of Ontario maintains contact with many Ombudsman world wide.

During the year the Ombudsman dealt with 33,920 inquiries and complaints (33,261 in 1991-92).

Complaints increased 4% to 8,237 (7,938 in 1991-92) while inquiries increased 1% to 25,683 (25,323 in 1991-92).

In 23,842 or 70% of the cases (22,681 or 68% in 1991-92), no further action was required or possible beyond giving of a referral or making an inquiry on behalf of the complainant.

In 1,827 or 5% of the cases (2,528 or 8% in 1991-92) even though the complaint was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.

There were 1,953 or 6% cases discontinued (2,040 or 6% in 1991-92). Of these 1,483 were discontinued by the Ombudsman because an adequate alternative remedy was available to the complainant, or no further involvement was required.

Verbal and written complaints and inquiries
by final resolution

	Verbal and written complaints and inquiries	
	1992-93	91-92
Complaint resolved by Ombudsman	886	1,095
Investigation discontinued	1,953	2,040
No action possible	1,202	1,321
Resolution facilitated/Referral given/Inquiry made	29,879	28,805
Total	33,920	33,261

Glossary

Verbal complaint or inquiry

Complaint or inquiry usually received over the telephone.

Written complaint or inquiry

Complaint or inquiry received by note or letter with signature of complainant.

Resolution facilitated/Referral given/ Inquiry made

Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.

No action possible

No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the complaint is anonymous, or it is beyond our capacity to facilitate a resolution.

Discontinued by Ombudsman or complainant

The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the complainant does not wish to pursue the matter further for various reasons.

Resolved by Ombudsman in favour of complainant

The complaint is supported in favour of the complainant.

Resolved by the Ombudsman in favour of the Government organization

The complaint is not substantiated and therefore not supported.

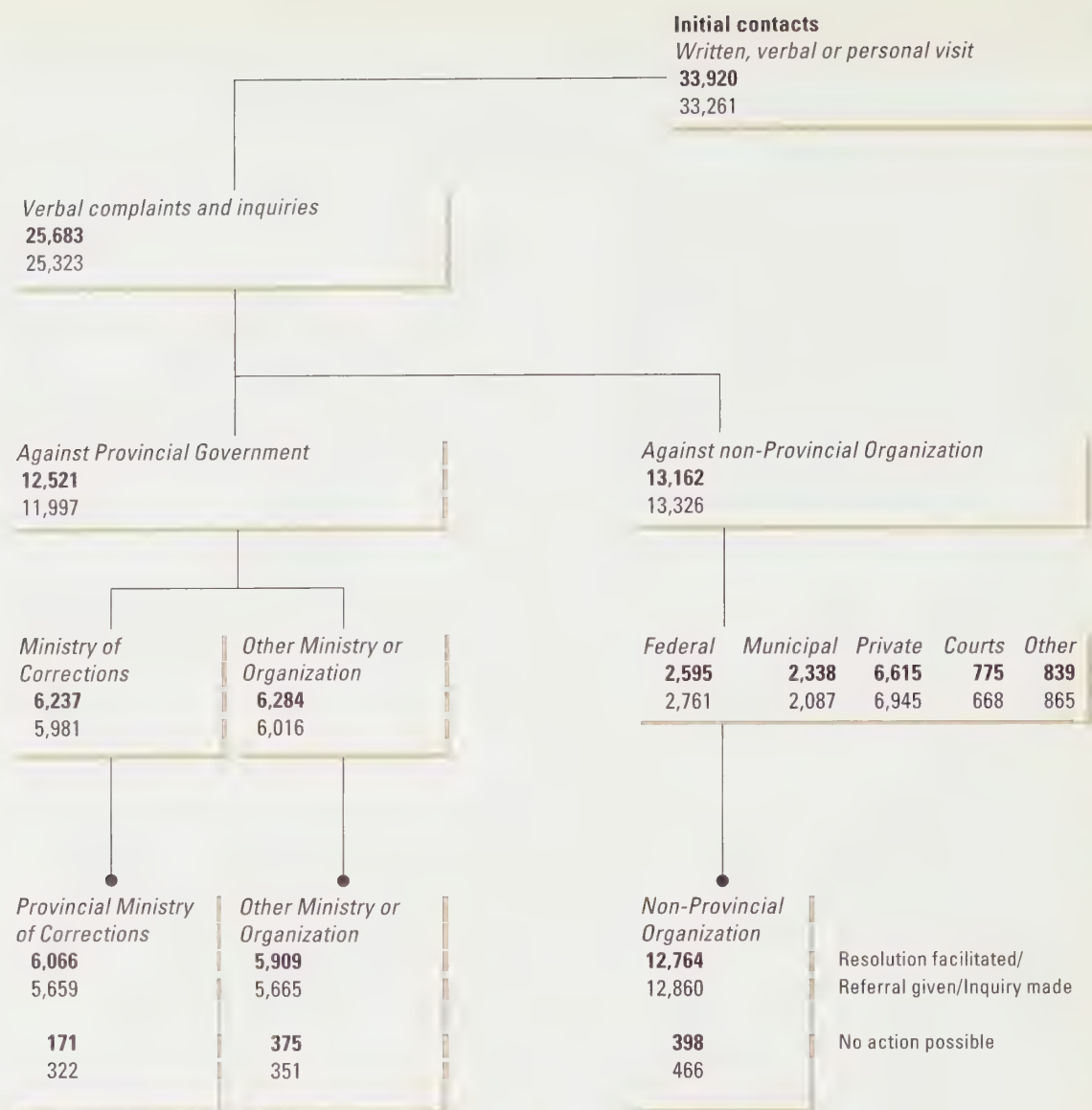
Resolved in favour of Government organization with suggestions

The complaint was not supported but suggestions for change of policy or systems is recommended to the Government organization.

Resolved by other means

The complaint is resolved with minimal involvement of the Ombudsman.

Statistical information



Verbal and written complaints and inquiries by Organization or Agency

	Verbal complaints and inquiries		Written complaints and inquiries		Totals	
	1992-93	91-92	1992-93	91-92	1992-93	91-92
Provincial Organization	12,521	11,997	6,987	6,960	19,508	18,957
Non-Provincial Organization						
Federal	2,595	2,761	204	143	2,799	2,904
Municipal	2,338	2,087	387	294	2,725	2,381
Private	6,615	6,945	538	421	7,153	7,366
Courts	775	668	76	81	851	749
Other	839	865	45	39	884	904
	13,162	13,326	1,250	978	14,412	14,304
Totals	25,683	25,323	8,237	7,938	33,920	33,261

Written complaints and inquiries

8,237

7,938

Bold figures: 1992-93

Regular: 1991-92

Against Provincial Government

6,987

6,960

Against non-Provincial Organization

1,250

978

Ministry of
Corrections

1,658

1,951

Other Ministry or
Organization

5,329

5,009

Federal

204

143

Municipal

387

294

Private

538

421

Courts

76

81

Other

45

39

Provincial Ministry
of Corrections

887

1,033

273

386

186

167

10

26

54

95

220

226

28

18

Other Ministry or
Organization

596

419

197

202

339

450

262

324

35

33

3,749

3,471

151

110

Non-Provincial
Organization

0

0

0

0

0

0

0

0

0

0

1,171

924

79

54

◀ Investigation discontinued
by Ombudsman

◀ Investigation discontinued
by complainant

◀ Resolved by Ombudsman
in favour of complainant

◀ Resolved by Ombudsman
in favour of Government

◀ Resolved by Ombudsman
by other means

◀ Resolution facilitated/
Referral given/Inquiry made

◀ No action possible

Statistical information

Verbal and written complaints and inquiries against Provincial Government Organizations by final resolution

	Verbal complaints and inquiries		Written complaints and inquiries		Totals	
	1992-93	91-92	1992-93	91-92	1992-93	91-92
Complaint resolved by Ombudsman						
in favour of complainant			525	617	525	617
in favour of Government organization			227	295	227	295
in favour of Government organization with suggestions			45	55	45	55
by other means			89	128	89	128
Investigation discontinued						
by complainant			470	588	470	588
by Ombudsman			1,483	1,452	1,483	1,452
Resolution facilitated/Referral given/Inquiry made	11,975	11,324	3,969	3,697	15,944	15,021
No action possible	546	673	179	128	725	801
Totals	12,521	11,997	6,987	6,960	19,508	18,957

Verbal and written complaints and inquiries against Ministry of Correctional Services by subject matter

	1992-93	91-92			
Classification/Transfer/Committal	1,381	1,041	Religious or life style diet	63	65
Health care inadequate or denied	1,085	1,328	Visiting privileges	60	74
Personal/Inmate property	588	384	Prescription requests denied	59	134
Living conditions in general	490	490	Lost earned remission punitive segregation	58	36
Temporary absence pass discretionary program	474	337	Transfer federal institution	57	29
Inmate misconduct	395	273	Health—other	54	73
Staff conduct	384	403	Second opinion denied	45	19
Living conditions—canteen allowance program	298	308	Mental health care	40	40
Other	280	378	Living conditions smoking	39	48
Discretionary program decisions	245	322	Pre-release	38	33
Living conditions—food/Diet	175	280	Classification other	36	43
Dental	157	167	Living conditions—overcrowding	36	73
Parole	151	195	AIDS, hepatitis	28	40
Correspondence	148	134	Charter of Rights	27	36
Glasses, eye care	139	72	Freedom of information/Protection of privacy	26	27
Living conditions—segregation	128	152	Community Resource Centre	25	43
Medical diet	114	102	Medical segregation	24	30
Administrative segregation	106	9	Ombudsman letter denial	13	20
Policy/Practice	100	209	Searches	13	11
Staff misconduct—assault	96	118	Ombudsman	12	21
Institutional discipline other than inmate misconduct	86	76	Secure facility	11	15
No response to request	79	65	Intermittent sentence	7	4
Yard	78	69	Open facility	4	6
Telephone access/Use	76	73	French	0	6
Protective custody	66	57	Probation	0	3

**Statement of expenditures
for the year ended March 31, 1993**

	1993	1992
Expenditures		
Salaries and wages	\$ 5,596,322	\$ 5,392,467
Employee benefits	1,196,516	1,240,077
Transportation and communication	454,891	431,814
Services	1,834,852	2,187,881
Supplies and equipment	346,067	371,613
	<u>9,428,648</u>	<u>9,623,852</u>
Less miscellaneous revenue	3,774	20,634
Total expenditures	9,424,874	9,603,218

Approved:

Roberta Jamieson
Ontario Ombudsman



To the Ombudsman

I have audited the statement of expenditures of Ombudsman Ontario for the year ended March 31, 1993. This financial statement is the responsibility of that Office's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 1993 in accordance with the accounting policies described in note 1 to the financial statement.

Toronto, Ontario
April 30, 1993

Erik Peters
Erik Peters, C.A.
Provincial Auditor

Notes to financial statement

1. Accounting policies

A. Basis of accounting. The Office uses a modified cash basis of accounting which allows an additional thirty days to pay for goods and services pertaining to the fiscal year just ended.

B. Furniture, equipment and leasehold improvements. Expenditures on furniture, equipment and leasehold improvements are expensed at the time of purchase.

2. Expenditure and miscellaneous revenue

Expenditures are made out of moneys appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.

3. Pension plan

The Office provides pension benefits for its permanent employees through participation in the Public Service Pension Fund, established by the Province of Ontario. The Office's share of contributions to the Fund during the year was \$536,454 (1992 - \$488,242) and is included in employee benefits. This amount includes current contributions and additional payments required to cover the Office's share of the Fund's unfunded liabilities on January 1, 1990. These additional payments commenced in 1990 and will continue over forty years.

**Audited
statement
for 1992-93
fiscal year**

The Ombudsman's staff

(as of March 31,
1993)

Kwame ADDO
John ALLAN
Lee ANDERSON
Marney ANDERSON
Jeanne ANG
Christine ANGUS-JONES
Tim ARKELL
Betty BAKER
Velupillai BALASUBRAMA NIAM
Sherry BAPTISTA
Suzanne BERNIER
Julie BERTRAND
Calvin BLACKWOOD
Robin BOSWORTH
Lorraine BOUCHER
Maureen BOURNS
Ginette BRINDLE
Dale BRYANT
Mary CARL
Gerry CARLINO
Barbara CASSON-ROBIN
Sharon CHAMBERS
Don CHEFF
Patrick CLEMENT
Joyce COOLMAN
Lise CORBEIL
Jackie CORREIA
Jackie CRAWFORD
Fiona CREAN
Penny CUMMINGS

Rosie DEAR
Zalina DEODAT
Millicent DIXON
Steven DRAWBELL
Hannalie ETHIER
Cathy EVANS
Paula EYLER
Serge FALARDEAU
Peter FARNCOMBE
Mary Jane FENTON
Jack FERA
Kwasi FRIMPONG
Perry GERHARD
Beth GILBERT
Anita GLASIER
Dianne GRIFFIN
Anne HART
Sue HASLAM
Alison HEDDEN-JENSEN
Marylynn HIGGINS
Barbara HIRST
Jackie HOLMES
Esla HUTCHINSON
Alison IRONS
Thomas IRVINE
Gini JOHNSON
Eva KALISZ
Elizabeth KEDDIE
Janet KERSHAW
Barbara KIESECKER

Dianne KING
Craig KOHLER
Inez KNUDSON
George LA ROSA
Diane LAUZON
Jane LAWRENCE
Allan LEE
Barbara LEE
Judith LEE
Lourdes LEGARDO
Adam LEIGH
Lourine LUCAS
Vivien MANN
Victor MARCUZ
Laurel MAY
Michael MAYNARD
Eric MEZIN
Minerva MOHAMMED
LaVerne MONETTE
Dean MORRA
James NICHOLAS
Sherrie NICHOLSON
Daudi NDIWA-LANA
Mary Elizabeth NUGENT
Rachel OLASO
Michael ORR
Janet ORTVED
David PARADISO
Irv PEASE
Kathy PENFOLD
Laura PETTIGREW
Manuela POPA
Matilda PRESNER
Tanys QUESNEL
Wendy RAY
D'Arcy ROBERT
Faye RODGERS
Josie ROMAN
Janet ROSE
Claude ROY
Wolfgang SCHULZ
Joe SEMENCIW
Madalena SILVA
David SIMPSON
Michael TAYLOR
Jo-Anne TERRENCE
Elizabeth VIRC
Elizabeth WESTON
Shelly WILCOX
Jennifer WONG
Barbara WORTHINGTON
Gary YEE
Pam YOUNG

Gerry Carlino
Investigator





The Ombudsman's Offices

1 Toronto 125 Queen's Park Toronto, ON M5S 2C7 (416) 586-3300 586-3485 (fax) 586-3510 (TDD)	2 Kenora 100 Chipman St. Unit 10, Market Square Kenora, ON P9N 4E4 (807) 468-2851 468-2853 (fax) 468-2972 (TDD)	3 Sudbury 66 Elm St., Suite 108 Sudbury, ON P3C 1R8 (705) 688-3116 688-3084 (fax) 670-0328 (TDD)	4 Thunder Bay 213 Red River Rd. Thunder Bay, ON P7B 1A5 (807) 345-9235 345-0378 (fax) 346-9130 (TDD)
5 Ottawa 151 Slater St. #308 Ottawa, ON K1P 5H3 (613) 239-1487 239-1489 (fax) 232-8569 (TDD)	6 Sault Ste. Marie 143 Great Northern Rd., Unit 2 Sault Ste. Marie, ON P6B 4Y9 (705) 945-6914 945-6916 (fax) 945-6884 (TDD)	7 London 920 Commissioners Rd. E. London, ON N5Z 3J1 (519) 668-0511 668-7187 (fax) 668-7182 (TDD)	8 Timmins 85 Pine St. S., Suite 108 Timmins, ON P4N 2K1 (705) 268-2161 268-8377 (fax) 268-2885 (TDD)
9 North Bay 450 Main St. W., Unit #2 North Bay, ON P1B 2V2 (705) 476-5800 497-9931 (fax) 476-4156 (TDD)	10 Windsor 224 Erie St. W. Windsor, ON N9A 6B5 (519) 973-1314 973-1317 (fax) 973-1401 (TDD)		

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French: 1-800-387-2620



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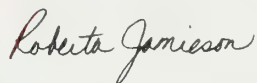
June 7, 1994

The Hon. David Warner, Speaker
Legislative Assembly
Province of Ontario
Queen's Park
Toronto

Dear Mr. Speaker:

I am pleased to submit to you my
Annual Report for the period April 1,
1993 to March 31, 1994, pursuant to
Section 11 of the Ombudsman Act so
that you might cause it to be laid before
the Assembly.

Yours truly,

A handwritten signature in dark ink, reading "Roberta Jamieson". The signature is written in a cursive, flowing style.

Roberta L. Jamieson
Ombudsman

Dear Reader,

To ensure that you receive up-to-date information about Ombudsman Ontario, please complete this form and mail it back to us. Our address is printed on the reverse of this card. Postage is paid.

Name: _____ Organization: _____

Address: _____ City: _____

Province: _____ Country: _____ Postal/Zip Code: _____

My organization would like to have Ombudsman Ontario staff make a presentation about its services: ☐ yes ☐ no

Contact me at: _____ (phone number)

I would like to receive a quarterly newsletter ☐ instead of ☐ in addition to the Annual Report.

Comments about our 1993-94 Annual Report: _____



OMBUDSMAN
ONTARIO



0011951299-M5S2C7-BR01

**Communications Department
Ombudsman Ontario
125 Queen's Park
Toronto, Ontario M5S 2C7**

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*This Annual Report is
some measure of
where we started,
how far we have
moved along, how
much further we
have to go, and how
we are planning to
get there.*

VISION

Ombudsman Ontario will strive to ensure that people are served justly, equitably, and fairly by Ontario government organizations.

MISSION STATEMENT

In striving to achieve this Vision, we are committed to the following goals for fairness and service:

- Investigate and resolve complaints efficiently;
- Deliver relevant, timely, impartial and accessible services;
- Foster objective standards of government administration;
- Act as a resource to government organizations and the public to prevent future complaints;
- Increase public awareness of our organization;
- Be ethical and accountable;
- Encourage teamwork through joint consultation and communication;
- Monitor and evaluate our organizational performance;
- Realize individual potential through pro-active human resource practices.

THE OMBUDSMAN'S MESSAGE

My mission as Ombudsman has been to provide the people of Ontario with the best possible Ombudsman services. This they deserve, this they demand, and this is what the Legislature intends them to have.

How can this be done in a time of increasing demand for services and fiscal restraint? The question is a familiar one. Perhaps we are tired about hearing of unprecedented change battering our public institutions. We have not fully grasped the impact that government's new realities will have on our lives. We expect government to continue providing comprehensive, high-quality services, accommodating the increasing numbers of persons who seek access to assistance programs, and reducing spending to cut the deficit. The same forces which cause people to seek more government assistance also reduce the government's income. Not only do we expect the government to maintain the status quo on less money — we expect it to initiate necessary changes to provide a strong foundation for our future.

It is little comfort that we are experiencing part of a global phenomenon where the norm is rapid change bordering on chaos. We cannot breathe a sigh of relief that the worst is over — our economic sands are just in the first stages of shifting.

Governments have to make hard choices. Which services are vital and necessary and which are unaffordable left-overs from more prosperous times? Which organizations and institutions are key to the protection and enhancement of strongly held values?

In the Ombudsman sector, there are both overlap and gaps of service. While efforts

we have made mean the people of Ontario will continue to have top quality Ombudsman services, the improvements have not happened without considerable sacrifice and hard work. At the same time, Ontario is experiencing a proliferation of Ombudsman-like agencies and commissions.

It is unfortunate that in the din of debate over these critical questions, the voices of those among us who are the most vulnerable, the most likely to have to interact with government on a day-to-day basis, often go unheard. We know that when governments are pressured to do more with less and employees must make decisions under pressure, the potential for error and unfairness rises. Everyone becomes more vulnerable — it is for this very reason that the services the Ombudsman provides are more essential than ever.

Against this stark landscape, I attempt to fulfill my mandate of investigating and resolving complaints that the public has in their dealings with government. The same landscape that I see outside the door also confronts us inside the Ombudsman offices. We are not immune from either the pressures or the challenges. This year, Ombudsman Ontario had a 13 percent increase in written complaints and inquiries with no real increase in either staff complement or budget.

Tough times can be used as an excuse for inaction, an excuse for a decline in services. An organization can batten down the hatches, become defensive, exhibit a siege mentality, complain about having to do more with less, and chronicle a worsening situation. My staff, however, took the higher road. We are facing tough times with courage and honesty, vigorously accepting

the challenge and creatively designing and implementing practical strategies. Along the way we learned many lessons.

We learned that expecting people to do more with less within the same framework is neither reasonable nor realistic.

We learned that if we were to succeed, every single organizational structure and procedure had to be open to change and improvement.

We learned that we must be open to ideas presented in consultation with members of the public, staff, government officials, and in the results of the recent value for money audit completed by the Provincial Auditor.

We learned through strategic public education initiatives that we are reaching more and more people who represent the diversity of Ontario. We are learning too that internal adjustments are required in order to provide equity of service to all Ontarians.

We changed and are changing the way we do things. We restructured investigative teams, developed a new computer system, streamlined the case management system, and adopted a more decentralized organization so that responsibility is exercised where it is most effective. These and other changes are discussed in greater detail in the Directorate reports which follow.

Has all this change been seamlessly smooth? Absolutely not. There have been snarls and disagreements. It has been the

commitment to succeed which enabled us to courageously and cooperatively find satisfactory resolutions. The hidden benefit in all this is an increasing comfort with change, seeing it as a characteristic of the environment in which we will work for the foreseeable future. We are becoming a learning organization.



This Annual Report, then, is some measure of where we started, how far we have moved along, how much further we have to go, and how we are planning to get there.

I have always considered it essential that our operations be above reproach and set out clear standards of fair service if I am to expect the same

quality of service from government organizations. My belief that this is possible without sacrificing quality, justice, fairness and equity has been reinforced and encouraged by the manner in which our staff has dealt with this challenge. We are happy to share our experience with any government agency which wants to listen.

I hope that the people of Ontario will find our improved operation of value to them. My staff and I stand ready to listen, investigate and resolve problems far into the future.

Roberta Jamieson

Roberta L. Jamieson
Ombudsman



*Change is now a
constant for both
our managers and
staff. To be useful
and effective, we
must take charge
of this change.*

DIRECTORATE REPORTS

COMMUNITY ACCESS AND INTAKE DIRECTORATE

Community Access & Intake (CAI) is responsible for public education programs, receiving complaints, providing early resolution of those complaints, and providing the public with information and referrals. The Directorate has taken steps to improve and strengthen its links to the community, broaden its audience, implement public education plans, increase its use of plain language and tailor its communications to meet public needs. CAI has also improved its processes, including complaint intake procedures and the development of public education resource materials.

Ombudsman Ontario's Mission Statement commits the organization to an accessible, timely, efficient and culturally appropriate client service. With the Mission Statement in mind, CAI examined how its services are offered and identified barriers to delivery of that service.

The Directorate strives to be responsive to the changing demographics of Ontario; it has had to find appropriate ways to reach diverse communities and has developed strategies for effective outreach to disenfranchised groups.

CAI met with over 11,000 people through approximately 520 planned activities and presentations. CAI staff also attended community fairs, Annual General Meetings and staffed booths at a number of events such as:

- International Plowing Match and Farm Machinery Show where about 6,700 people visited our display;
- A career fair in Sault Ste. Marie involving approximately 960 students;
- A community Health Fair sponsored by General Motors in Windsor with over

1,000 employees and retired employees in attendance;

- and a booth at the N'Amerind Pow-Wow near London attracting approximately 600 people.

Preliminary results of CAI efforts indicate that the audience we reached includes some of the following groups:

- 30 percent were racial minorities, recent immigrants or refugees (in Toronto this figure reached 45 percent)
- 10.3 percent were First Nations people (in Kenora this figure was 33 percent)
- 13 percent were youth (in Kenora this figure was 43 percent; in Thunder Bay 33 percent; and in Sudbury 35 percent)
- 13 percent were seniors (in Sault Ste. Marie this figure was 35 percent)

Forty two public education presentations took place in the Francophone communities of Ontario, predominantly in the Sudbury and Timmins areas. Focus was also given to economically disadvantaged people; CAI staff held 53 different presentations for this group, mostly in the Ottawa, Toronto and Windsor areas.

Three percent of the public education audience was people with disabilities or people providing service to them. In North Bay this figure reached 5.6 percent. In examining provincial demographics, it is clear CAI needs to do a better job of outreach to people with disabilities.

Approximately 57 percent of the public attending Ombudsman Ontario activities have been women. In Ottawa and Timmins, the number of women attending reached 68 percent. These figures drop to 47 percent women attending in Windsor, where a larger male audience can likely be attributed to plant closures and a focus on laid-off workers.

CAI has a large territory to cover and does this with nine District Offices plus a Toronto office. It was a busy year for each location. The following list provides some examples of regional activities conducted by the District Offices.

TORONTO:

The seven staff based in Toronto visited close to 100 community based organizations and made presentations to both workers and clients of these organizations. The range of organizations visited includes mainstream community centres and agencies which serve clients with particular needs, such as people who are economically disadvantaged; people with physical, developmental and psychiatric disabilities; recent immigrants and refugees; youth, seniors, Francophones; and people of colour.

TIMMINS:

The focus in Timmins during the past year was on First Nations and Native communities. Visits were made to Friendship Centres; student groups; the Kunnuwanimano Child and Family Services; and the Misiway Eniniwuk Community Health Centre. Timmins staff also met with the Centre d'accueil, the Centre d'alphabetisation, women's groups and schools.

SAULT STE. MARIE:

Staff in Sault Ste. Marie also gave priority to members of the First Nations and Native communities. Meetings were held with the North Shore Tribal Council, the Niin Sakaan Literacy program and other Native groups.

OTTAWA:

Staff made presentations to ESL teachers; Ottawa Carleton Immigrant Services; Visible Minority Women Against Abuse; service providers from the County of Prescott-Russell; shelters for battered women; a training program for economically disadvantaged women; and two local child care associations. Ottawa staff also set up displays at conferences such as the Success Stories Fair for racial minority women.

NORTH BAY:

Staff in North Bay focused efforts on people with disabilities. Meetings took place with the Physically Handicapped Adults' Rehabilitation Association; Access Muskoka for the Physically Handicapped; the CNIB; the Nipissing District Industrial Training Corporation; and the Easter Seal Society. Discussions also took place with the Muskoka Interagency Group, Information Muskoka and the Seven Arrows Learning and Rehabilitation Centre.

WINDSOR:

District Office staff gave priority to providing services to youth and to people who are economically disadvantaged. Monthly information sessions were also conducted with the Association for Community Living.

SUDBURY:

Staff made presentations to municipal associations; Francophone students at Cambrian College and Laurentian University; seniors in Val Caron and with la Federation des Aînés Francophones de l'Ontario.

Over the next year, the Community Access and Intake Directorate will continue to be challenged in the way it offers service. Those challenges are as much internal as external. CAI examines barriers to delivery of service as part of its daily routine. Delivering appropriate service will include a knowledge of the community, using relevant approaches to it and identifying whose commitment and support is essential.

LONDON:

District Office staff ran an information booth at the International Plowing Match in Bruce County. Staff conducted workshops through London Settlement Services and also toured Grey and Bruce counties to meet with the Chief of the Chippewas of Nawash, Grey County Social Services, South-East Grey Support Services, Ministry of Environment and Energy, Queen's Bush Rural Ministries and Grey, Bruce, and Ontario Federations of Agriculture.

THUNDER BAY:

Providing accessible services to remote communities continued to be a priority for District Office staff in Thunder Bay. Visits were made to: Fort Albany; Kashechewan; Attawapiskat and Peawanuck on the James Bay coast; Nipigon; Geraldton; Pays Plat; Schreiber; Terrace Bay; Marathon; Manitouwadge and Mobert. Presentations were also made to the Francophone community including Accueil Francophone, Association des Francophones du Nord-Ouest de l'Ontario and Feminin Pluri-Elles. Meetings were held with Confederation College, the Thunder Bay Tenants' Association and a number of high school classes.

KENORA:

In addition to making presentations to groups throughout the district, Kenora staff participated in a panel for tenants, facilitated a workshop at a cross-cultural conference in Red Lake and operated a booth in Dryden at the Striving and Thriving Conference for Northwestern Ontario women in trades. Staff also travelled to the First Nations communities of Big Trout Lake, Kingfisher, Pikangikum, Deer Lake and Sandy Lake.



FINANCE, ADMINISTRATION, COMMUNICATIONS AND SYSTEMS DIRECTORATE

The Finance, Administration, Communications and Systems Directorate (FACS) has undergone significant change in its role this year. Since FACS was originally conceived as a support division for other Directorates, its role has been expanded to include the coordination of organizational strategic planning. The Directorate has taken many initiatives on behalf of the organization and became the primary catalyst in revisions to Ombudsman Ontario systems. FACS is committed to a decentralized environment where staff is empowered and encouraged to participate fully in the decision-making process. The challenge next year will be to maintain this forward momentum.

FINANCE DEPARTMENT

The Finance Department manages all fiscal aspects of the organization including: budget estimates and monitoring; accounts payable; payroll preparation and payment; financial planning and analysis; and financial statement preparation. The Department undertook a number of major initiatives this year.

FACS is committed to a decentralized environment where staff is empowered and encouraged to participate in decision-making.

A new computerized Payroll system was implemented with Canadian Automated Data Processing, Inc. (ADP). These payroll services are independent of the payroll services of the provincial government. Using ADP gives greater control over the function and addresses our unique payroll requirements. The conversion went extremely smoothly and everyone is satisfied with the new arrangement.

Budget workshops were held to introduce the budgeting process to new and District Office staff. The workshops were well-received and provided everyone with clear insight into a complicated process. Budget estimates were prepared for the year reflecting commitments to social contract legislation. Financial management and budgetary control were strongly maintained through prudent management of our financial resources.

A comprehensive value for money audit was conducted and the Finance Team managed day-to-day relationships with the audit staff. The audit did not reveal any major problems in the financial management of Ombudsman Ontario and recommendations from it were readily implemented.

ADMINISTRATION DEPARTMENT

The Administration Department provides a variety of support services to the organization including purchasing, word processing, switchboard, records, and maintenance and repair. This "quick response team" is responsible for addressing problems that arise daily and demand immediate attention. In addition to these regular responsibilities, the team completed other major projects during the year.

One major project was a study on the use of existing space in the office. The result was an internal move. Floor space was assigned to each Directorate and 65 staff members were relocated in order to group teams together in common areas of the building.

Another project Administration managed was a study on current telephone needs. A number of problems were corrected and 15 people were added to the voice-mail system to facilitate client access. The study will continue into the 1994-95 fiscal year to ensure that the public has cost-effective access to Ombudsman Ontario's services.

A milestone was achieved in the organization this past year and Administration played a significant role in recording the accomplishment. Over 100,000 case files were documented by Ombudsman Ontario from its 1975 inception to this fiscal year-end and it appears that we are rapidly moving towards our next 100,000 files.

COMMUNICATIONS DEPARTMENT

The Communications Department has only recently become part of the FACS Directorate. It provides a communication service for Ombudsman Ontario that includes provision of internal and external communications; media relations; educational materials and publications; writing services; publication translation services; managing the production and distribution of special reports and the annual report; and advice, guidance and management of communication needs and issues.

A major undertaking of the Communications Department this past year was the development and design of a visual identity for Ombudsman Ontario. The identity is now in place and work has commenced on applying it to all new Ombudsman Ontario publications and reports.

The communications team works closely with other parts of the organization to ensure that external and internal communications contribute to the effective operation of Ombudsman Ontario.

SYSTEMS DEPARTMENT

The Systems Department provides technological training, consulting and maintenance services for the organization. The Department was reorganized to meet the demands of a major project undertaken this year.

The existing computer system utilizing nine year-old technology was replaced by a state-of-the art client server network system. This system represents the best technology available to take our organization into the future. Before installing the new system, a needs analysis was conducted. The system was then designed and implemented in the Toronto and District Offices. The installation of the new system tied over 100 computers into a central server. It incorporates word processing, inquiry and case management, financial accounting, intake and referral, electronic mail, information access, District Office communication, and public education and human resource components.

A comprehensive training program was conducted to ensure computer literacy for all staff. Training courses will continue to keep staff skilled in the use of new software. Through a monthly payroll deduction plan, many staff have purchased identical computers for use at home.

HUMAN RESOURCES DIRECTORATE

The 1993-94 fiscal year has been a year of facilitation and consolidation for the Human Resources Directorate.

Both the economy and the impact of technology on information have redefined public service jobs as we previously knew them. Change is now a constant for both our Managers and Staff. It is no longer enough for each of us to perform a series of linear tasks. Our credibility as an organization is

measured by lateral thinking, teamwork, project management, producing beneficial results and most importantly, by providing client service and satisfaction.

Re-engineering the way we work is not easy. As we move forward we must be committed to the vision, accept scope and autonomy, take risks, embrace new concepts, execute initiatives passionately and boldly, and for all this - be accountable.

In order to survive and continue to be a useful and effective service for the people of this province, we must take charge of the change before us. Our "blueprint for change" is based on our Vision and Mission Statement, the recommendation raised in our 1992 in-house Employee Attitude Survey and in our 1993 value for money audit. Human Resources plays a significant role in implementing those recommendations. How this Directorate contributes is outlined in the next six sections.

RECRUITMENT, SELECTION AND PLACEMENT

As positions become vacant, we review where staff would provide added value. The ratio of internal client service staff to external client service staff is being gradually balanced without increasing the overall staff complement of the organization. This is of particular benefit to our nine district offices across the province; most of these locations have been increased to two person offices. Two staff members at each location allow the district offices to provide more comprehensive intake and outreach services.

Human Resources focuses on a balance between the development and promotion of staff from within our organization and the recruitment of new staff from grassroots community based organizations. This practice helps our organization to be as fully representative of the people of Ontario as possible.

Most positions designated bilingual under the French Language Services Act are now staffed with individuals who have advanced oral and written skills. In addition to providing service in English and French, our staff are also fluent in a number of other languages.

ORIENTATION, TRAINING AND DEVELOPMENT

Staff recruited over the past year participated in a comprehensive "Orientation to Ombudsman Ontario" program which assists them to put their individual mandates into the context of the mandate of the entire organization.

All staff had opportunities to participate in a variety of programs addressing topical issues, short-term skill training and long-term career development. These programs are offered across the organization to directorates, teams and individual employees. External and internal resources are used for the programs. Most notable are the Dispute Resolution Training facilitated by Nathalie Rockhill of St. Stephen's Community House's Conflict Resolution Service and the Windows software computer training facilitated by our organization's Systems Department.

All Directors and Managers are involved in a training program to help them manage more effectively in a period of significant transition and change. Ombudsman Ontario recently initiated a series of strategic planning sessions to better link our vision and mission to our workplans and budget. The strategic planning sessions also provide a

forum for discussing such topical issues as access, accommodation, diversity, equity and outreach.

PERFORMANCE MANAGEMENT

Now that our Vision and Mission Statement is more clearly understood throughout the organization, individual staff members are able to participate more fully in the setting of precise, quantitative individual goals which link into team, directorate and organizational workplans. Our aim is to create an organization of "continuous learners" who think creatively, take risks, propose solutions and accept accountability.

RECOGNITION AND REWARDS

Yet to be addressed is how to more directly relate remuneration to performance; we have come from the practice of automatic step progression based on length of service to the reality of fiscal restraint. We are still working towards solutions to this issue.

STAFF RELATIONS

Ombudsman Ontario continues to negotiate its first collective agreement. The OPEIU applied for conciliation in March, 1994. Once a contract has been finalized, we can complete our systematic review of Human Resource directives and guidelines and draft a comprehensive staff handbook. The Human Resource Directorate will demonstrate its commitment to being "user friendly" and aware of environmental concerns by putting these documents on our computer system.

Ombudsman Ontario also continues to look at ways to make communication more effective and efficient in the office. Some things we do help us to communicate better are, for example: hold team meetings; establish joint staff-management task forces; publish an internal newsletter; plan social activities, and communicate via computer e-mail.

This has been a challenging year for Human Resources. The Directorate will continue to assist Ombudsman Ontario complete a number of initiatives and move towards becoming a more efficient and effective organization.

SPECIAL PROJECTS

Our 1991 Pay Equity project has been reviewed in the context of recent legislation and we are developing a strategy to link it to upcoming Employment and Service Equity initiatives. Under our collective agreement, the proposed joint Labour-Management Relations Committee will play a major role in facilitating such projects.

Significant progress has been made in implementing a Human Resource Information System (HRIS). Benefits and attendance information can be retrieved in a variety of formats as planning and counselling tools. Additional types of information such as salary administration, job evaluation and performance management will be put into the system during the next fiscal year.

INVESTIGATIONS AND LEGAL SERVICES DIRECTORATE

The Investigations and Legal Services Directorate (ILS) has four investigative teams and one legal services team. Each investigative team is responsible for particular issue areas and for relations with government organizations delivering programs and services to the public in those areas. The legal services team provides legal advice to each of the four investigative teams in its area of responsibility.

The Social Benefits Team deals with social services, human rights, social assistance and corrections issues. The Land Use and Resources Team deals with matters involving land, planning, natural resources, utilities, environment and housing. The Finance and Regulation Team deals with issues about licences, regulation, taxes, certificates, finances, insurance, justice and pensions. The Labour, Health and Education



Team handles matters involving labour, employment, health, education and psychiatric institutions.

One goal of the Investigative and Legal Services Directorate is to investigate and resolve complaints efficiently. ILS strives to improve each step of the complaint handling process by continually analyzing its procedures. When the public comes to the Ombudsman, it expects the best service. The Directorate is mindful that it must be on the cutting edge of policy, administrative practices and processes. Resolving a dispute between the public and its government involves a tremendous commitment of resources; keeping this commitment in mind, the Directorate strives to be effective and quick in conducting those investigations.

The number of cases handled by Ombudsman Ontario increased this year. As have many public service agencies, Ombudsman Ontario has had to manage this caseload without an infusion of new staff or resources. Recognizing this shortage, the ILS Directorate contributed by evaluating its effectiveness and making constructive changes to procedures and processes.

When the public comes to the Ombudsman, it expects the best service. ILS knows it must be on the cutting edge of policy, administrative practices and processes.

SYSTEMIC INVESTIGATIONS

Since reviewing and investigating the same complaint repeatedly is not effective, a decision was made to develop a strategic plan for identifying and handling systemic issues early in the investigative process. Systemic investigations are a means of dealing with individual systemic issues or multiple complaints against the same government agency. Crafting systemic remedies is a means of preventing future complaints of the same nature or on the same issue.

To this end, a series of workshops was held where information was shared and ideas gathered on how to identify, investigate and resolve systemic issues effectively. Positive results from these workshops are highlighted in a number of case summaries in this Report. Additional workshops are planned for the next fiscal year in order to continue to improve the systemic investigation process.

TRAINING AND DEVELOPMENT

Public expectations change about what is considered to be good service and what are service delivery standards. To satisfy these changing expectations, the ILS Directorate identified a need for staff development and training.

Information storage has become very sophisticated and computer literacy is essential to conducting effective investigations. Each staff member in the Directorate was provided with a computer terminal and training to use it. Computer training enhances how the information collected by investigators is used. For example, the computer helps staff with the easy identification of systemic issues, useful precedents, and caseload trends. Case summaries and reports can be prepared quickly with computers. As a result of computer access and training, staff are able to serve the public with an increased response time and more efficiency.

Investigative and Legal Services staff are also in the process of receiving advanced training in dispute resolution techniques. The advanced training will enhance their already proficient skills in complaint handling, an essential element in their work.

ILS consciously sets aside funds and time to allow it to keep current on legislative and other changes affecting the services and programs delivered by provincial government agencies. Preparing for change enables the Directorate to effectively handle complaints as they are submitted.

GOVERNMENT COMMUNICATIONS

ILS is taking initiatives to improve communication with government organizations. The Directorate is identifying opportunities to visit government organizations that could benefit from hearing about the role and function of the Ombudsman. Proactive communications with government result in better relationships and quicker resolutions when complaint issues arise.

Some government organizations now refer complainants to the Ombudsman. The Ombudsman is known as the place of last resort on issues and as an information resource for the general public. These referrals are a testament to the spirit of cooperation the Ombudsman strives to achieve with government organizations.

ILS staff also offer to attend the meetings of government officials to explain the investigative process and review with them the types of complaints the Ombudsman has handled involving their agency. This will continue to be a priority in the coming fiscal year. Information sharing assists government organizations to make proactive, constructive changes in their processes and procedures. Improved service to the public is the end result.

STANDARDS

During the past year, the Directorate has taken a lead role in compiling and classifying information from cases about the standards used by the Ombudsman in deciding complaints. Early in the new fiscal year, a document will be prepared outlining the Ombudsman's concept of fairness, equity and justice and the standards used to review the actions of provincial government organizations. The Ombudsman plans to share this document with government and the public.

SPECIAL REPORTS

Five Special Reports were tabled with the Legislature in 1993-94. Four of the Special Reports deal with cases where the government organization refused to implement the Ombudsman's recommendations; the ministries involved in those four cases are the Ministry of Citizenship, Ministry of the Attorney General (Family Support Plan), and the Ministry of Community and Social Services. The other Special Report asks the government to pay special attention to issues affecting the ability of the Ontario Human Rights Commission to effectively enforce human rights in the province. Two cases involving the Ministry of Community and Social Services have been resolved. The Ombudsman hopes to appear before the Standing Committee on the Ombudsman by the 1993-94 fiscal year-end to present the remaining cases for the Committee's consideration.

LEGISLATIVE ISSUES

In the past two Annual Reports, the Ombudsman urged the government and the legislature to take steps to deal with an unfortunate and unintended conflict between the Freedom of Information and Protection of Privacy Act (FIPPA) and the Ombudsman Act. The conflict is about the Ombudsman's ability to obtain information relevant to an investigation and to subsequently protect

that information from unwarranted third party access. Unfortunately, no action has been taken in this matter. The resulting problem causes delay in the investigative process and impacts adversely on the ability of government organizations to comment on Ombudsman findings.

COMMENDATIONS

Each year the Ombudsman and her staff review cases they have investigated and experiences they have had in dealing with provincial government organizations. The purpose of the review is to recommend government organizations which deserve commendation for the provision of excellent or radically improved service to the public of Ontario. Criteria for selection are:

- creativity
- flexibility
- timeliness of responses
- cooperation
- commitment to share information

This year the Ombudsman commends:

- The Office of the Registrar General
- Northern Health Travel Grant

Conversely, some government organizations have been consistently unresponsive. This year the Ombudsman censures:

- *Ministry of the Solicitor General and Correctional Services*
- *Ministry of the Environment and Energy*



*The complaints
brought forward to
the Ombudsman are
quite diverse and
none are considered
insignificant.*

TYPES OF COMPLAINTS

In order of frequency, the most common types of complaints about government action this year were:

- The interpretation of criteria, standards, guidelines, regulations, laws, information or evidence was wrong or unreasonable.
- The decisions made or the policy applied had an adverse impact or discriminatory consequence on an individual or group.
- Processes, policies or guidelines were not followed or were not applied in a consistent manner.
- The actions of a particular government official amounted to harassment, bias, mismanagement or bad faith.
- An inadequate or improper investigation was conducted.
- There was unreasonable delay in taking action or reaching a decision.
- An unfair settlement was imposed or coercion was applied to accept a settlement.
- A service available to the public was denied to the individual or group.
- Insufficient or no reasons were given to support a decision.
- Insufficient or improper notice of an action or decision was provided.
- A proper record was not kept of the actions taken or evidence supporting an action or decision.
- There were not adequate or appropriate communications with the individual or group.
- The actions of an agency were not adequately monitored or managed by the responsible government organization.



*These case summaries
represent common
issues from the thou-
sands of cases that
Ombudsman Ontario
handled during the
past fiscal year.*

SELECTED CASE SUMMARIES

While each one of the cases brought to the Ombudsman during the year is important, there are too many to summarize in the Annual Report. We have selected a few which are highlighted in the following section. These case summaries represent common issues from the thousands of cases that have been handled and describe how the Ombudsman and her staff do their work.

DELAY IN PROVIDING VOCATIONAL REHABILITATION SERVICES

► An individual who is visually challenged contacted the Ombudsman requesting an investigation into the handling of his request for vocational rehabilitation services by the Ministry of Community and Social Services. He requested assistance through the Ministry's Vocational Rehabilitation Services (VRS) program to purchase specialized computer equipment which he needed to pursue an employment opportunity. He believed the Ministry's delay in processing his application had caused him to lose the position.

The Ombudsman investigated and concluded that the Ministry's handling of the complainant's application for VRS fell below a reasonable standard in a number of ways. The Vocational Rehabilitation counsellor had insisted (contrary to Ministry policy) that the application be made in person at the office and also failed to obtain all the necessary information from the complainant at the outset. The Ministry also neglected to monitor the case following the placement of the equipment order.

An apology and compensation were offered to the complainant as a result of the Ombudsman's recommendations to the Ministry.

RETROACTIVE BENEFITS PROVIDED

► A single mother of a large family attempted to apply for Family Benefits in April, 1989 but did not start receiving them until February, 1991. In the meantime, she received General Welfare Assistance for an amount significantly less than Family Benefits would provide.

Her request was delayed because the social assistance workers responsible for the application process kept losing or misplacing the information she gave them and then requesting it from her again. Social assistance workers are employed by a municipality to administer the Family Benefits application process. The Ombudsman determined that the Ministry of Community and Social Services is responsible for their actions since these workers are appointed by the Ministry to perform a task for which the Ministry is responsible.

The Ministry responded to the Ombudsman's inquiry by agreeing that there was a delay in referring and approving the complainant's application. The Ministry sought an Order-in-Council permitting it to pay the complainant the difference between the amount in General Welfare Assistance and Family Benefits to which she was entitled. She was also provided with retroactive Family Benefits for a four month period during which her application was delayed by the Ministry.

FAMILY BENEFITS TRANSFER DELAY

► A complainant was receiving General Welfare Assistance when she informed her worker that she was pregnant and wished to be transferred to Family Benefits assistance upon the birth of her child.

In early April 1989, employees with the regional municipality which administered General Welfare Assistance in the complainant's area, went on strike until August 1989. In May 1989 the complainant gave birth to her child and contacted the General Welfare Assistance office a number of times to initiate the transfer to Family Benefits. She was told each time that she would have to wait until the labour dispute ended before a transfer could be initiated.

In August 1989, the complainant went to the Ministry of Community and Social Services Family Benefits office to inquire about the transfer. She was informed the labour dispute had just ended and that she would have to return to the General Welfare office for her application to be taken. Her application was finally taken in December 1989 and she was granted assistance in March 1990 with payments retroactive to January 1990, the earliest possible date under the regulations.

The complainant was refused a request that the Ministry consider an Order-in-Council to allow retroactive payments to September 1989 when she would have been eligible to begin receiving Family Benefits had the strike not occurred.

After reviewing the recommendation of the Ombudsman, the Ministry agreed that the complainant's circumstances warranted an Order-in-Council and one was approved.

DISABILITY FUNDING EXTENDED

► A complaint was submitted to a District Ombudsman Office by the Executive Director of the facility in which the complainant resides. As a result of the complainant's disability, she exhibited self-abusive behaviour which was treated with intense one-on-one behaviour modification therapy. The therapy was funded by the Ministry of Community and Social Services and appeared to help her.

When she turned 18 years old, she was transferred from the programs designed for children to the adult system; therefore, she could not continue therapy because funding was no longer provided by the Ministry. The institution asked if the Ministry would obtain an Order-in-Council to provide her with continued funding. The Ministry was reluctant, citing fiscal restraint.

The Ombudsman made inquiries and found that the complainant was a status Indian with no known family. A Residential Placement Review Committee examined her and determined she would be best served if she remained in the facility and continued with therapy. In the interim, the Children's Aid Society extended its wardship over her on a monthly basis and provided her with a per diem to defray the cost of therapy.

The various agencies involved in her case met regularly to establish a plan of care for her. All agreed that she should remain in the facility and would benefit from continued behaviour modification therapy.

When the Ombudsman contacted the Ministry again, it agreed that all the agencies involved in the complainant's case were attempting to provide the most appropriate care for her and that she would not be likely to live independently in the community since there were no other programs available to provide her with the therapy she needed. The Ministry agreed to request an Order-in-Council to pay for her continued behaviour modification therapy.

INFORMATION PACKAGE FACILITATES SERVICES

► As a result of injuries received in a domestic dispute, the complainant has quadriplegia, depends on a respirator, and needs a customized wheelchair to attain some measure of independent living. Family members and hospital staff attempted to resolve arising issues of care and financial assistance for her, but lacked the resources to network with service agencies. Therefore, the complainant came forward about an apparent delay in obtaining assistive devices and in her transfer to a vocational rehabilitation centre.

With the assistance of her prime caregivers at the hospital, the complainant identified her needs and desire to receive rehabilitation services. The Ombudsman's staff made informal inquiries to service agencies, the Ministry of Health and the Ministry of Community and Social Services to provide the referrals and information needed to access funding sources. The complainant was given an extensive information package which listed the agencies, private service providers and both federal and provincial ministries which addressed issues of disability. She keeps this package with her at all times.

As a result, the complainant made inquiries and received a customized wheelchair, portable respirator and lift. On October 2, 1993 she entered a rehabilitation facility in the United States. On November 18, the Rehabilitation Director telephoned the District Office to express her appreciation that the patient was so well prepared with information. This information was useful for the Rehabilitation Director in discharging and participation programming for the patient. The Director was not aware of Ombudsman Ontario and was very interested in how the organization works. She remarked that the facility receives many Canadians with spinal cord injuries but has never received a patient



so well prepared with access information to Canadian programs. She asked for information regarding Ombudsman Ontario because she was uncertain if her state has an Ombudsman.

*Staff reviewed
the complainant's
circumstances*

CHANGES OF NAME DELAY

► A complainant applied for a change of name certificate for employment purposes and asked the Office of the Registrar General to expedite the processing of her application. She said that her request had been unreasonably denied.

When notified of the Ombudsman's intention to investigate, the staff immediately reviewed the complainant's circumstances and agreed to provide expeditious services. However, the complainant's file was misplaced and could not be processed immediately. Eventually the file was recovered, the application processed and the complainant's certificate issued.

IMPROVEMENT OF SERVICE DELIVERY –
OFFICE OF THE REGISTRAR GENERAL

In response to numerous individual complaints, the Ombudsman initiated an investigation about the level and quality of service provided by the Office of the Registrar General, Ministry of Consumer and Commercial Relations. The investigation focused mainly on complaints concerning difficulties in contacting the Registrar General's office in Thunder Bay by telephone; delays in the delivery of services after cheques for those services were cashed; and the misplacement of documents which were sent to the office, such as birth certificates and change of name applications.

During the investigation, it was found that the Office of the Registrar General converted its records to a new computer imaging system at the same time it moved its operation to Thunder Bay. Backlogs in the processing of service requests had arisen as a result of the move and the conversion. Also, the initial allocation of telephone lines was inadequate.

The Office of the Registrar General recognized and acknowledged the problems and implemented a series of action plans to address the difficulties in each service area in order of priority. Measures included increasing office hours, hiring temporary staff and introducing a system to deal with all genuine emergency applications. However, the remedial measures were slow

to take effect and the reliance on new and inexperienced staff led to an increased incidence of errors and new problems apparently caused by an inattention to detail.

After the investigation, the Ombudsman concluded that the omission of the Office of the Registrar General to provide a satisfactory level and quality of client service since its move to Thunder Bay was unreasonable.

However, she noted that the Registrar General's office and the Ministry were aware of the problems and she acknowledged the efforts that both were making to remedy the situation. Those efforts, including the provision of counter services from an office in Toronto, began to produce positive results, notably, shorter processing times for services. More improvement was expected in the future. The Ombudsman, therefore, continued to monitor the situation and requested statistical information from the Office of the Registrar General on future service delivery. The information subsequently submitted by the Deputy Registrar General, as well as a noted decrease in the number of complaints made to the Ombudsman, indicated that sufficient improvements had been made. Therefore, the Ombudsman decided that the Office of the Registrar General had adequately and appropriately responded to her recommendations and the systemic investigation was closed.

APPLICATION FEE

REFUNDED

► In October 1990 the complainant applied to the Office of the Registrar General for a birth record for a relative born prior to 1869. In February 1992, the complainant contacted Ombudsman Ontario for assistance, since she had received neither the certificate nor a refund of the \$21.00 fee she had paid.

The Ombudsman's staff inquired informally with staff at the Registrar General's office and learned that vital statistics for the Province of Ontario were not kept prior to July 1869. Therefore, the Registrar General's office was unable to process the complainant's application. It promised to refund the \$21.00 application fee.

In March 1993, the complainant contacted the Ombudsman again because she had still not received the promised refund. The Ombudsman's staff contacted the Registrar General's Office once again and a refund cheque was promised for the following week. On April 15, 1993, the complainant confirmed that she had received her refund.

NOTICE OF CANCELLATION REQUIRED

► A complainant was advised by her optometrist that an OHIP claim for services rendered to her son had been rejected by the Ministry of Health. She called the OHIP Information Office and was advised that her son's Health Card had been cancelled and that she would have to call the OHIP District Office to find out the reasons for the cancellation.

After the Ombudsman inquired, the complainant was advised that the Health Card was cancelled when the claim was processed because the Ministry's computer system showed two different dates of birth for her son. OHIP officials explained that the Ministry was in the process of updating its

computer system to avoid duplication and fraud. The complainant was asked to complete a new application for her son and send it to the attention of a specific OHIP employee, who would ensure that the information on the computer was corrected promptly. OHIP officials assured the complainant that, in the meantime, her son would be covered by OHIP in case of an emergency.

The Ministry apologized for failing to issue a cancellation notice and notified OHIP officials that all employees should be reminded of the requirement to issue notices when Health Cards are cancelled. The OHIP employee also contacted the complainant when the correction had been made and advised her that she would receive a new Health Card for her son within three weeks.

UNFAIR JOB COMPETITION

► An employee of the Ministry of the Solicitor General and Correctional Services claimed that she was not being hired for jobs for which she believed she was qualified. The complainant was given two job interviews and was not successful in either competition. The Ombudsman's investigation revealed that the complainant's former manager had placed a negative Separation Report on her personnel file, indicating that he would not rehire her.

The Ombudsman was not able to substantiate the information the Ministry used to exclude the complainant from further employment. It was also discovered that the complainant was not provided with a copy of the Separation Report in order to make her own comments on it.

The Ministry agreed to implement the Ombudsman's recommendation to remove the adverse report from the complainant's file and to ensure that in the future, copies



The Ombudsman's jurisdiction is for the most part limited to matters of administration

of these reports are given to the separating employee for comment and signature. The Ministry also agreed to design and implement job competitions that properly evaluate candidates' skills and to ensure compliance with its own job competition guidelines.

OPPORTUNITY TO RESPOND

► A woman was a volunteer at a Ministry since 1986 and was also employed by the same Ministry on two contracts in 1990. She alleged that she was unable to find employment in the field due to unfair recruitment practices.

The Ombudsman's investigation revealed that she was unable to secure further employment with the Ministry because of an adverse Separation Report placed on her personnel file by her former Area Manager.

The Ministry looked into the matter and found that the information upon which the complainant's negative report was made, was unsubstantiated. While the complainant continued to work as a volunteer, the Ministry was able to re-assess her skills. Eventually the Ministry placed a memorandum on her file negating the impact of the earlier adverse Separation Report. The Ministry also stated that it would include the complainant in the next round of hiring (after the end of the

Ontario Government imposed hiring freeze had been lifted).

In addition, the Ministry reviewed its recruitment practices with respect to unclassified staff. A sub-committee of Area Managers developed a central recruitment model to provide a uniform decision-making process for entry level staff positions. Furthermore, the Area Managers in the Region were instructed to adhere to administrative fairness principles when contract staff are terminated or a contract ends.

JOB LOSS SETTLEMENT

► The complainant was a successful candidate for a caretaker position at a Community College. The incumbent caretaker grieved this action which delayed the complainant's date of hire. Unfortunately, the complainant had already given notice at his old job when advised of the delay.

The College settled the grievance with the incumbent caretaker prior to arbitration and he was awarded the job. The complainant was given approximately ten days' notice that he no longer had the job he was just hired for. He then attempted but was unable to return to the job he left in order to join the College.

The Ombudsman noted that the complainant lost two weeks' pay due to his hiring delay. Given the circumstances under which he was released, the notice period may not have been adequate. The Ombudsman asked the College to consider whether the complainant should have been hired in the first place and what possible damage there might be to his reputation as a result of being dismissed. The College's representative proposed a settlement which was acceptable to the complainant including reimbursement for equipment he had purchased to perform his duties as caretaker.

MINISTRY OF HEALTH REGULATORY CHANGES

A number of individuals and groups contacted the Ombudsman with concerns about Ministry of Health changes to out-of-country payment policies. These changes occurred beginning in October 1991. Some of these concerns were dealt with on an individual basis but a number of issues continued to surface and, as a result, the Ombudsman decided to initiate an investigation on her own motion.

The Ministry of Health was notified of the Ombudsman's intention to investigate various issues concerning changes made to Regulation 452 under the Health Insurance Act. A number of areas were highlighted, principally the question of adequate notice (whether it was provided to the public); legislative and policy change; the preferred providers' process; and concerns about pre-existing and ongoing medical conditions.

The Ombudsman was concerned about the amount of "lead time" and consultation opportunities provided to members of the public regarding proposed policy changes. Investigation revealed that the Ministry took many steps to ensure adequate notification, including public service announcements and advertisements in all English and French newspapers throughout Ontario.

New out-of-country payment policy had come into effect on October 1, 1991, while the actual regulatory change was not finalized until February 1992. The Ombudsman was informed that the new policy went into effect as of October 1, 1991 and out-of-country claims were processed at the new rates from the earlier date.

The system of "preferred providers" was an arrangement whereby the Ministry entered into agreements with certain out-of-country facilities at negotiated lower or "discounted" rates for Ontario patients in order to minimize costs to

the province. The Ministry assured the Ombudsman that lack of preferred provider agreements in certain areas would not affect access to required health treatment. Where a particular treatment was not performed in Ontario, or the waiting period would result in death or irreversible tissue damage, the Ministry of Health would pay for the actual cost outside Ontario, once prior authorization had been obtained.

The Ombudsman also requested information from the Ministry of Health about provisions made for people with chronic conditions and those who were in the process of receiving treatment at the time the policy changes came into effect. She was particularly concerned about patients with brain injury, as well as adolescents suffering from severe psychiatric, emotional or behavioural difficulties who are represented in substantial numbers in United States' facilities. The Ministry provided information regarding the process and new developments in this area as well as details about how these patients were being provided for under the new regulatory change.

Insofar as concerns about coverage for travellers (for example, seniors going south for the winter) the Ministry obtained an undertaking from private health insurance carriers that no changes regarding pre-existing health conditions would come into effect for at least one year.

The Ombudsman's jurisdiction is for the most part limited to matters of administration as opposed to those of fiscal allocation or legislation. Given these legislative provisions and the information collected during this investigation, the Ombudsman concluded that the Ministry had not acted improperly. The information obtained through the investigation was provided to the complainants.

DEDUCTION REFUND PROVIDED

► When his employment was terminated, a complainant filed a claim with the Employment Practices Branch of the Ministry of Labour. The Ministry supported his claim but allowed his employer to deduct, without the complainant's permission, a little over \$800.00 from the termination pay for unemployment insurance and Canada Pension Plan contributions that had not been deducted by the employer two years previously.

The complainant was told by the Ministry that the Employment Standards Act provides that the employer can make deductions from termination pay where it is required by statute. In this case, two statutes, the federal Unemployment Insurance Act and the Canada Pension Plan required the employer to make deductions.

The Ombudsman reviewed the federal and provincial legislation and noted that the Acts require the employer to make the deductions in the ordinary course of events but, if the employer fails to make these deductions at the proper time, the employer then becomes liable for the contributions.

After discussion between the Ombudsman and the Deputy Minister of Labour, the Ministry agreed to repay the complainant the money that had been deducted and to advise Ministry field staff so that in the future, legislation will be properly interpreted.

WORKERS' COMPENSATION DELAY

► On his third day of employment, a young man suffered chemical burns to both legs, resulting in a compensable injury. Although this injury had occurred three months earlier, the Workers' Compensation Board informed the worker that it would still be several more months before a decision could be made.

The worker felt this delay was unfair and asked the Ombudsman's District Office to look into the matter. Ombudsman staff contacted the Adjudicator and Supervisor at the Workers' Compensation Board and confirmed for the worker that the Board had agreed to give his claim priority. Two weeks later, the worker's claim was approved and he received a cheque in the amount of \$1,020.00.

OVERPAYMENT SCHEDULE ARRANGED

► The worker receives monthly pension benefits from the Workers' Compensation Board (WCB) to recognize her disabilities as a result of two compensable accidents. During a recent period of temporary disability, her claim was overpaid and the Board began to recover the overpayment by withholding her entire monthly pension cheque. Ombudsman staff called the WCB Adjudicator to outline how this was presenting financial hardship to her and to explain that the Board had made no attempt to discuss her financial situation with her prior to recovering the overpayment. The WCB then agreed to deduct 20 percent from the monthly award until the overpayment was recovered.

TRIBUNAL RECONSIDERS EVIDENCE

► A worker, a waitress for three years, complained to the Ombudsman that the Workers' Compensation Appeals Tribunal (WCAT) had wrongly concluded that her shoulder disability was not work-related.

The Ombudsman investigated and found that the original hearing panel did not have sufficient medical evidence about work-related disablement to deny the claim. After the Ombudsman made her tentative conclusions known, WCAT appointed a new

Panel which concluded that the issues did not warrant re-opening the original decision.

After reviewing WCAT's response, the Ombudsman issued a final report, maintaining that WCAT was wrong to deny entitlement based on the medical evidence that was available. The Ombudsman recommended that WCAT reconsider its original decision and obtain more medical evidence.

WCAT agreed and appointed a third Panel to consider the Ombudsman's finding and recommendation. The worker will have another opportunity to present her case to WCAT.



INACCURATE RECORD CORRECTED

► A complainant allowed his licence to expire in 1991. In August 1993, he successfully completed the test and paid the required fees to renew his licence. He received a temporary licence.

The complainant was also successful in securing employment as a driver but the prospective employer required a document from the Ministry of Transportation entitled a "Driver's Abstract." The complainant went to the Ministry office and paid the required fee to obtain the Abstract but it read "unlicensed and unrenewable." The complainant learned that although he renewed his driver's licence, it takes time before the computer is able to produce a "clean" abstract.

The complainant then contacted an Ombudsman Ontario District Office. The District Officer contacted Ministry staff in the area, as well as Toronto staff, to explain the predicament of the complainant. Ministry staff in Toronto offered to manually issue a clean Driver's Abstract to the complainant.

TIME EXTENSION

► The complainant, a senior citizen on a fixed income, was advised by the Ministry of Transportation that his driver's licence would soon be suspended unless he provided a certificate from a driving school. The complainant approached the Ombudsman since he was unable to accumulate enough savings on his fixed income to pay for the certificate from the driving school within the period specified by the Ministry. Ombudsman staff contacted the Ministry of Transportation and it agreed to extend the date of suspension in order to allow him enough time to obtain the certificate. The complainant was fully satisfied with the Ministry's offer.

LICENCE DELAY

► A complainant had several problems with the Ministry of Transportation. She was attempting to upgrade her licence to allow her to drive motorcycles. Since the complainant's original application was lost in the mail, the Ministry of Transportation processed a temporary licence for her which required her to mail her permit, with photographs, to Toronto. The complainant's frustration peaked when the

In addition to providing service in English and French, our staff are also fluent in a number of other languages.

temporary permit lapsed and she was unable to replace it without the identifying photograph.

After three months of delays, the complainant asked Ombudsman Ontario to help her get her licence back. An Ombudsman Ontario District Officer contacted the Ministry of Transportation requesting a status update on the complainant's licence upgrade. The Ministry could not explain why it was taking so long to process the upgraded licence but reviewed the matter and agreed to process the licence upgrade manually and deliver it to the complainant within ten days.

EQUIVALENT EXPERIENCE CONSIDERED

► The Ministry of Consumer and Commercial Relations refused to grant a complainant a certificate as a fourth class stationary engineer on the grounds that he did not have the three month training under the direction of a Chief Engineer or Shift Engineer as specified in the legislation.

During the course of the Ombudsman's investigation, it was pointed out to the Ministry that it is possible for an applicant, such as a Professional Engineer of Ontario, to have other experience which would qualify the applicant to perform the work required, but which may not include the specified three month training under a Chief Engineer or a Shift Engineer.

The Ministry agreed to review the complainant's application to determine whether his work experience was an acceptable alternative to the training specified in the legislation. This was accepted as a satisfactory resolution of the complaint.

PROPER NOTICE GIVEN

► The Ombudsman received complaints from some real estate agents who, because of changes made in 1988 to a Regulation under the Real Estate and Business Brokers Act, were required to take three additional educational courses within two years of being registered as agents. Without the courses, their real estate licences would not be renewed. The complainants did not believe they had received proper notice of the changes to the Regulation.

The Ministry of Consumer and Commercial Relations, in consultation with the real estate professional body, had initiated changes to the Regulation to better protect the public interest. The Regulation provided that any agent who registered after September 15, 1988 had to take three additional courses within two years of receiving a licence.

The Ombudsman found that the Ministry acted within its authority in making the regulatory change. Notices were put in some newspapers which are distributed across the province and were also put in the Ontario Gazette. It was also well known in the industry that the changes were coming.

The complainants had failed to take or pass the additional courses within the two year period and as a result, their licences simply expired. The Ombudsman found that the Ministry had not been unreasonable.

TENDERING SYSTEM IMPROVED

► A company submitted a bid for a Ministry of Government Services (MGS) contract by facsimile transmission to a fax number printed on the Invitation to Tender letter. The transmission was sent just prior to the closing deadline. The original documents followed by mail; however, these documents were returned to the com-

plainant, unopened, with the notation that his bid had been received after the deadline.

The complainant was told that his facsimile transmission had never arrived in the Public Tenders Office, since the fax number he had used was for a different MGS office. Although the complainant accepted the Ministry's position that it could not consider his company's bid, he asked the Ombudsman to investigate the circumstances in order to ensure that a similar incident would not occur again.

Ombudsman staff met and discussed the matter with officials from the MGS. On review of the Invitation to Tender documents, it was apparent that there were references to certain information (e.g., telephone and fax numbers) which did not need to appear in the package. This non-essential information was misleading and confusing. Accordingly, MGS agreed to delete the unnecessary information and make the instructions clearer. The complainant was satisfied that the improvements had been made.

PENSION PLAN PROCESSING

► A complainant came to the Ombudsman about the length of time the Pension Commission of Ontario had taken to approve the wind up of his pension plan. His funds had been moved to a short term account when his plan administrator had notified the Pension Commission of his application to discontinue the plan. As a result, the funds accrued interest at a lower rate than they had earned in the Guaranteed Income Certificate account where they were previously invested.

The Ombudsman, upon investigating, found that there is nothing in the Pension Benefits Act that specifies the length of time in which submissions must be processed by the Commission's staff. The Commission does not direct how pension money is to be



invested. The Ombudsman concluded that the amount of time it had taken the Commission to process the complainant's pension plan wind up was within its normal time frame.

Often the complainant and Ministry resolve their problems once the Ombudsman brings them together.

CHARITY OBTAINS SALES TAX REFUND

► A representative of a charitable organization contacted the Ombudsman with a complaint regarding the payment of provincial retail sales tax. The organization had been advised by the local tax office that it would have to remit retail sales tax on handicraft items that it sold at fund-raising events. The charity did not think that this was fair because it is a non-profit organization. It did not have the capability to calculate retail sales tax on the various items at the time of sale. To remit the tax later would substantially lower the amount of the funds raised.

A member of the Ombudsman's staff contacted an official at the Ministry of Finance. Arrangements were made for the Ministry's official to discuss the matter directly with the complainant.

Soon afterwards, both the Ministry and the complainant advised that the problem had been resolved. Apparently, there had been a misunderstanding at the local tax office. It was thought that the people who had given their

articles to the charity for sale on consignment had not paid retail sales tax on the materials used to make the items. The tax office was concerned that, if no sales tax was charged when the items were sold, no tax at all would have been collected. The charity was able to provide the Ministry with clarification and assurance that sales tax had been paid when the materials were purchased. The Ministry was satisfied that appropriate taxes were being paid and decided that the charity would not have to remit additional sales tax. A reimbursement of the amount already paid from the last fund-raising event was also provided to the charity.

INVESTIGATION RESULTS SHARED

► A complainant contended that the investigation conducted by the Registrar, Travel Industry Act, into his complaint against a travel service company had been inadequate. He believed that the investigation had not addressed his specific concerns and, therefore, the Registrar's conclusions were unreasonable.

The Ombudsman found that the investigation conducted by the Registrar's office had been satisfactory. However, the final letter sent to the complainant by the Ministry of Culture, Tourism and Recreation outlining the results of its investigation, contained inaccurate information and did not reflect the full extent of the Registrar's investigation into the complaint. This information was clarified for the complainant. Although the Ombudsman concluded that the Registrar had thoroughly reviewed the complainant's concerns, the Ministry was made aware of the importance of providing a clear and accurate explanation to members of the public.

FAMILY SUPPORT PLAN RESPONDS TO DELAY

► A complainant contended that the Family Support Plan had been unreasonable in failing to collect support payments for her children for a three week period; failing to index the support payments; and failing to respond to her correspondence.

The Ombudsman found that the Family Support Plan had no authority to collect support payments for the three week period in question because the interim order giving the complainant this support effectively ceased when the final divorce judgment was made.

With respect to the complainant's other concerns, the Ombudsman was able to ensure that the Family Support Plan acknowledged the delay in applying the cost of living index and made the adjustment to the arrears owing to the complainant. An apology was also offered to the complainant for failing to respond to her correspondence.

ACCESS TO FAMILY SUPPORT PLAN

► A woman complained that she had been unable to reach the regional Family Support Plan (FSP) office by phone. The Plan had asked her to contact the local FSP office. Her daughter was in town visiting and tried to schedule an appointment for her since she uses a wheelchair.

Since the daughter was in town for two days only, she was anxious to help her mother respond to FSP's request and tried to set up an appointment where she would bring her mother to that office. However, she had been unable to reach the FSP to ensure that the person responsible for her mother's file would be available when they came to the office. She contacted Ombudsman Ontario's District Office and

asked for help. The District Officer was able to reach FSP and arranged for staff there to phone the client so that an appointment could be set.

ENFORCEMENT TRAINING ENHANCED

► The Family Support Plan failed to intercept a support payor's inheritance even though the recipient provided the Plan with advance notice of the potential asset.

The complainant regularly contacted the Family Support Plan by letter, telephone and personal visits to the Toronto office to provide information about the support payor whose mother recently passed away leaving him an inheritance. This information was given to the Plan well in advance of the distribution of the inheritance but it failed to take any action or fully explore the available enforcement initiatives.

A problem identified by the Ombudsman was that staff lacked training and exposure to cases involving estates. Another problem was that the Plan thought the case should be handled by an out-of-province authority because the support payor resided in another province. Consequently, the Family Support Plan failed to recover the outstanding child support arrears owing to the complainant.

The Ombudsman determined that even though the support payor lived out-of-province, the asset was located in Ontario and, therefore, enforcement action was the responsibility of the Family Support Plan in Ontario. The Ombudsman recommended staff training initiatives be taken by the Family Support Plan and that the Plan compensate the complainant the amount she lost as a result of the Plan's omission. All recommendations were implemented.

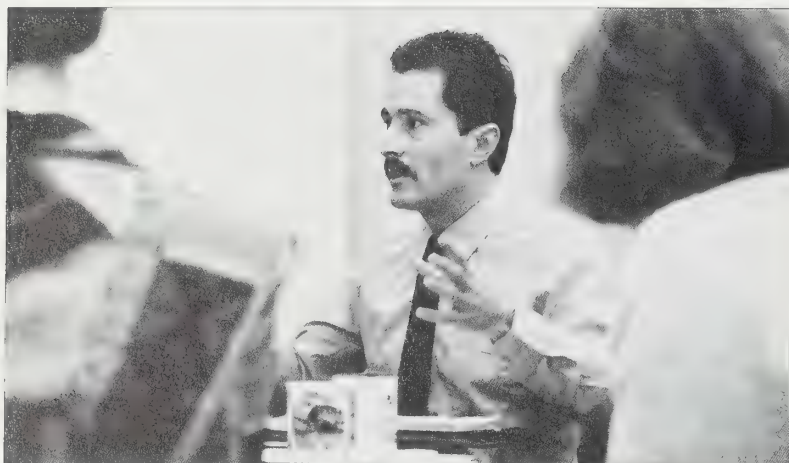
INADEQUATE REVIEW OF COMPLAINT

► A psychiatrically challenged individual complained that the Ontario Human Rights Commission had declined to investigate his complaint about the Ministry of Housing's Ontario Home Renewal Program for the Disabled (OHRP-D). He was told by the Ontario Human Rights Commission that his complaint was "frivolous, vexatious or made in bad faith."

During the course of the Ombudsman's investigation, it became apparent that the Ministry of Housing might be administering the OHRP-D program in a way not based on legislation or official policy. While the mandate of the program was not actually set out in legislation, any material describing the program did not limit it to people with physical disabilities. It appeared that the program was established to provide applicants with access to their homes.

The medical documentation provided by the complainant in application to the program was not highly supportive. However, the Ombudsman found that the Commission's officer might have been more thorough in initially determining exactly what the real mandate of OHRP-D was and if it coincided with the stated mandate and policy expressed in the Ministry's correspondence to the complainant and the Commission. The Program staff's repeated statements that it could only provide funding to applicants with physical disabilities should have been followed up in more detail by the Human Rights Commission.

As a result of the investigation by the Ombudsman, the Human Rights Commission wrote to the complainant expressing regret about his dissatisfaction with the Commission's decision not to investigate his concern; not obtaining a release form before approaching the complainant's doctor or psychiatrist; and the length of time it took for the Commission to deal with this case.



After investigating, the Ombudsman expressed concern about procedural fairness.

STUDENT FINANCIAL AID REVIEWED

► A first year Metis law student at the University of Ottawa was required to attend and successfully complete a program in Legal Studies for Native People. When she applied for financial assistance from the Ontario Student Assistance Program (OSAP) she was given oral confirmation from the Financial Aid Office at the University of Ottawa that she would receive funding. Halfway through the course, she was advised in writing by OSAP that she would not receive financial assistance. The complainant appealed the decision but was unsuccessful.

During the Ombudsman's investigation, it was found that OSAP was presently under review. The Ministry said this matter should be considered within the context of that review and any program changes which could result from it. As a result of the review, it was determined that Ontario residents registered in the program of Legal Studies for Native People would now be eligible to apply for financial assistance under the Ontario Special Bursary Plan.

IMPROPER INTERPRETATION OF LEGISLATION

► A tenant contacted Ombudsman Ontario because she believed a Housing Authority had improperly interpreted the Landlord and Tenant Act. She had personally submitted 60-day written notice that she was vacating the unit to the Manager of the Housing Authority.

A problem developed when the new apartment which she rented was not ready for occupancy. She contacted the Housing Authority immediately and asked the Manager if she could remain in her unit for one additional week. She said she would be willing to pay rent for the extra week. The Manager stated that it would not be necessary because she had been a good tenant and had always paid her rent on time.

Several months after moving out of the unit, the tenant was served with papers to appear in Small Claims Court. The Housing Authority was claiming rental arrears in the amount of \$651.04. She was unable to appear in court that day because she was a probationary nurse. Judgement was therefore entered against her.

Since she was unable to pay the bill immediately, her name was forwarded to the Credit Bureau. She was frustrated because she believed she had followed the proper procedures. She contacted the Ombudsman for help.

The Ombudsman's staff contacted the Housing Authority, which agreed to forgive the one month's rent. The Housing Authority also agreed to contact the Credit Bureau to have the matter resolved.

TRUSTEE JURISDICTION QUESTIONED

► A patient, while hospitalized in a provincial psychiatric hospital, was declared incompetent to manage his finances, so the Public Trustee assumed management of his affairs. Before he

was discharged, his physician issued a notice of continuance because he believed that the patient was still unable to manage his affairs.

When a notice of continuation is received, the Mental Health Act states that the Public Trustee ceases to have authority to manage a case after six months has passed since the discharge of a patient from the hospital. However, the Public Trustee can apply to the Ontario Court for an order to continue to manage the affairs of a person who is deemed incompetent.

Five months after the notice of continuance expired, the complainant unsuccessfully tried to have his assets returned to him. Since his only source of income was his pension benefits from Health and Welfare Canada, the Public Trustee decided not to proceed with a court application because the cost would be chargeable to the complainant. The Public Trustee continued to manage the complainant's affairs by writing to Health and Welfare Canada requesting that the Trustee be appointed under the Old Age Security Act. The complainant was not notified of this action nor was he told of his rights when he contacted the Public Trustee. He was only told that his assets would be returned to him if he obtained a letter from a physician confirming that he was competent. He did eventually obtain such a letter.

The Ombudsman concluded that the Public Trustee's actions were unreasonable and that the Public Trustee's omission to notify the complainant of the steps it had taken was unjust.

The Public Trustee altered its practices so that all clients would be notified of any action it plans to take in order to continue managing their affairs. It also agreed to advise its clients of their rights to object. As a result of the investigation, the complainant had his assets returned, along with a letter of apology from the Office of the Public Trustee for its actions in this matter.



The complainant was provided with an apology

UNREASONABLE COMMUNICATIONS

► A complainant asked the Ombudsman to investigate the Ontario Human Rights Commission's refusal to deal with his case on the grounds that he had delayed in bringing it to the Commission.

The complainant contacted the Commission to register a complaint against his former employer for failure to hire him after he had recovered from a work-related injury. His 13 year-old daughter acted as an interpreter since he was not proficient in English. He understood from the meeting that the Commission would initiate an investigation into his complaint but when he returned to the Commission office 14 months later, he discovered that he was supposed to return with more information before his complaint would be formally registered. The Commission refused to deal with his complaint since 14 months had elapsed.

The Ombudsman found that the Commission had acted unreasonably in refusing to deal with the complaint. The Commission had not ascertained if the complainant required an interpreter and failed to properly advise him of the six-month statutory limitation period.

The complainant was provided with an apology and compensation from the Commission in response to the Ombudsman's recommendation.

PUBLIC CONSULTATION PROCESS REVIEWED

► In 1991, the Minister of Natural Resources signed a Statement of Intent with the Algonquins of Golden Lake to negotiate their outstanding land claim. This agreement acknowledged the Band's right to fish and hunt for food in Algonquin Park.

Tourist operators in the area were dissatisfied with that decision because they contended that a consultation period allowed them was unreasonably brief and had not allowed real public input. They also maintained that it was unreasonable to allow hunting in a park which had served as a wildlife sanctuary for almost a century.

The Ombudsman investigated the operators' complaint and concluded that the Ministry had adhered to the principles of good public consultation and that a procedure was in place to ensure this process continued. However, it was noted that the consultation period started at a relatively late stage, giving an impression that the decision had already been made. The Ministry was cautioned to be aware of this factor in future consultations.

The Ombudsman found that hunting in the Park was being closely monitored by the Ministry and commented that the issue of aboriginal hunting rights could be appropriately addressed in the negotiating process.

WILD RICE HARVESTING APPLICATION DENIED

► A harvester's application to the Ministry of Natural Resources for a licence to harvest wild rice was denied on the grounds that there was a 15 year moratorium on licence issuances to non-native people in Northwestern Ontario.

The Ombudsman investigated and found that the moratorium boundaries had been determined for administrative reasons. The Ministry was awaiting the outcome of negotiations with a First Nation before deciding whether to lift the moratorium. However, in this case, the First Nation was located some distance from where the harvester had wanted to harvest the rice. The Ombudsman found the Ministry's rationale for denying the licence to be unreasonable and recommended that the application be reviewed.

The Ministry explained that because an Interim Measures Agreement was in effect in the area in question, local First Nations were to be notified whenever proposals for resource-related projects were to be carried out in their area. The Ministry suggested that the application be reviewed by the local Treaty Council and that their views be considered before it making a final decision on the application. The Ombudsman agreed that this would be satisfactory.

ACCESS TO LOGGING ROAD ARRANGED

► A complainant came to the Ombudsman because the Ministry of Natural Resources had denied him vehicle access to a logging road in order to carry out his commercial bear hunt. The complainant had been operating bear hunts along that road prior to the creation of Bear Management Areas (BMA) in 1988. He contended that no one had advised him that access to the road would be restricted at the time he was awarded his BMA.

The Ombudsman investigated and found that although the road was restricted to unauthorized vehicles, the Ministry did grant vehicle access to two operators in the area, a mining operation and a logging firm. The Ombudsman believed it was unreasonable for the Ministry to provide access for some commercial operations and not others and recommended that the complainant should have limited vehicle access to the road in the spring and fall to carry out his bear hunt. The Ministry agreed.

CONFISCATED FISHING NETS

► A Native woman complained that her fishing nets had been confiscated by the Ministry of Natural Resources on two occasions. On the first occasion, the nets were found to be outside the area authorized for Band use. She identified the nets to Ministry staff over the telephone but did not claim them in person. The Chief of her Band was assured the nets would be stored until the owner came forward to claim them. When the Chief contacted the Ministry about the nets the following year, he was advised they had been discarded.

After investigating, the Ombudsman found that the Ministry and the Band had an understanding that the nets would be claimed but that they were disposed of due to an oversight on the part of the Ministry. The Ministry agreed to compensate her for the lost nets.

On the second occasion, Ministry employees confiscated a length of gill net from her son. After storing the nets for three weeks, the Ministry decided not to lay charges and to return the nets. However, she claimed that the nets which she received were unusable due to improper storage and that she had to discard them.

The Ombudsman found on this occasion that the nylon nets could not have deterio-

rated in three weeks and that the Ministry's only duty was to ensure the nets were in the same condition when returned as they were when confiscated.

PROCEDURAL FAIRNESS REVIEWED

► A couple came forward to the Ombudsman with concerns about the Niagara Escarpment Commission (NEC) decision to reconsider and withdraw its support for their proposed rural subdivision plan. They were dissatisfied with the way the Commission adopted an internal retroactive subdivision low density policy which did not go through the amendment process.

After investigating, the Ombudsman expressed concern about procedural fairness at Commission meetings. The Commission agreed with the Ombudsman's findings and introduced new Rules of Procedure to respond to those concerns.

The Ombudsman also concluded that the Commission was unreasonable in adopting a new low density subdivision/lot policy without obtaining an amendment to the Niagara Escarpment Plan. The Ombudsman notified the Ministry of Environment and Energy that a Plan Amendment was necessary and suggested to the Commission that policy guidelines about policy interpretation and plan amendments be developed.

The Commission agreed that it must comply with the Niagara Escarpment Planning and Development Act in requiring amendments to the Niagara Escarpment Plan.

INCONSISTENT DECISIONS AND INADEQUATE REASONS

A property owner contacted the Ombudsman when the Ministry of Environment and Energy did not include his property in its septic and well improvement program. He said that the Ministry made additions to the program outside the original study area and asked that his property be given similar consideration.

The Ministry advised the Ombudsman that assistance through the program had not been extended to areas outside the original study area. However, the Manager of the Branch overseeing the project advised the owner that he would be added to the program. It was later discovered that the owner's property was not situated within the limits of the original study area so the offer to include him in the program was withdrawn.

During investigation, it was discovered that there had been many extensions outside the original study area. A request was made to the Ministry for a list of the properties that were added to the program and the criteria used in selecting those homes. After some delay, the Ministry explained that add-ons to the project were not restricted solely to

homes already in the survey but no information concerning the location or the number of additions was provided.

Some time after the investigation began, Ombudsman staff attended an on-site meeting with Ministry representatives and the chair of a voluntary committee involved in the administration of this project at the local level. During the meeting, it became apparent that the Ministry had failed to request available information concerning funding for extensions of this project. Throughout the remainder of this investigation, new information continued to surface that called into question the Ministry's capacity to make effective funding decisions for this project.

The Ombudsman made a number of recommended improvements to the program. The Ministry was also asked to apologize to the owner for its treatment of him. The Ombudsman was satisfied that the steps that the Ministry had taken to review and evaluate program policy, administrative procedures and program delivery were sufficient. Unfortunately, it took another six months and a number of meetings for the Ombudsman to convince the Ministry that a simple apology was in order.

SHARED DRAINAGE COSTS

► A cottager contacted the Ombudsman because he was unable to make any progress in discussions with the Ministry of Transportation about a drainage problem near his cottage.

The Ombudsman contacted Ministry staff and was able to determine that the Ministry would consider sharing some of the costs to fix the drainage problem but not all, since

the Ministry of Natural Resources, as well as private owners and the local roads board were also involved. The cottager was advised to obtain several quotes from local contractors and submit them to Ministry staff for consideration. The Ministry indicated its willingness to assist and work further with other involved bodies in order to resolve this problem.

The cottager was satisfied with this assistance.

ISSUE ADDRESSED WITH TRAINING INITIATIVES

An individual came to the Ombudsman with concerns about the Ministry of Environment and Energy's handling of her complaint about noise being emitted from a plant near her home.

The Ombudsman found that technical errors were committed by the Ministry's staff member who had reviewed her concerns. The Ombudsman asked for clarification of the Ministry's quality control system for noise complaint investigations and made a further request about the mechanism that the Ministry has in place to monitor and, if necessary, correct noise complaint investigations.

The response provided no information about the Ministry's quality control system for noise complaint investigations. Two meetings with senior Ministry officials and frequent telephone calls over the summer of 1993 did not elicit the information.

In October 1993 the Ministry's response to the Ombudsman again failed to provide any information. In January 1994, a fifth meeting of senior staff took place and the direct intervention of an Assistant Deputy Minister was required to provide the answer.

Late in February, nearly one year later, the Ombudsman was advised that a training program has been developed for environmental officers to ensure that they are properly trained to handle investigations of noise complaints. At least two individuals for each Region will be fully trained and kept up-to-date on the use of the equipment. By taking these initiatives, the Ministry will ensure that responses to noise complaints are carried out in a professional and accurate manner, the purpose of the Ombudsman's initial inquiry.

UTILITY NOT LIABLE FOR DAMAGES

► The Ombudsman is often asked to determine if a provincial organization should be held liable for damages to private property that occurred during the course of providing services to the public.

About 70 Ontario Hydro customers were not reimbursed when their electrical appli-

ances were damaged due to a power surge in their area. A tree situated on private property had fallen on a 44,000 volt line and consequently discharged high voltage into the 4,800 volt line supplying the suburb. Direct contact between the power lines totally destroyed the protective equipment installed by Hydro to stop such surges. Ontario Hydro said it was a "one of a kind occurrence" which had

never happened before and the surges were caused by the forces of nature, not by negligence on Hydro's part.

The Ombudsman looked into the complaint and found that Ontario Hydro had taken the appropriate measures to prevent power surges; its forestry crews maintained the right-of-way in an appropriate manner and installed proper equipment.

REASONS FOR DECISION PROVIDED

► In Northern Ontario, a group of individuals formed a committee to advise the Ministry of Transportation of their concerns about construction of a highway by the Ministry. The construction project was carried out without notifying or consulting the individuals affected by it. The Committee complained to the Ombudsman that the Ministry had refused to pay compensation for damages sustained by Committee members because of the highway construction.

The Ombudsman found that the Ministry had acted unreasonably when it failed to notify the individuals prior to construction. The Ombudsman was uncertain if the Ministry had applied the same criteria on all claim submissions as it had to the Committee Chair's claim. The investigation did not reveal evidence as to how the specific claim amount for the Committee Chair was determined or show any evidence from the Ministry or insurance adjuster for refusing the other claims. There was also no reason given for the Committee Chair's claim being settled for less than she had submitted.

The Ministry agreed to provide the Committee Chair with specific reasons why it paid her less and also provide the other claimants with specific criteria used to evaluate their claims. The Ministry promised to review all other claims to ensure that no extenuating circumstances existed which

may have been missed in the original review of claims. The Ministry also advised the Ombudsman that it would develop a province-wide communications policy regarding public notification for similar highway construction projects.

UTILITY RESTORES SERVICE

► The complainant contacted the Ombudsman for assistance when his municipal hydro service was cut off. He was unable to pay the outstanding \$900.00 utility bill because he was unemployed and his spouse was on a disability pension.

The complainant originally participated in the hydro company equal billing plan. His hydro costs were based on estimates from previous consumption. The company took a reading of his meter and found the estimates were too low and adjusted the billing accordingly. The complainant was unable to pay off the balance each month because of the increase in his bill but did continue to pay the amount on his monthly bill before the increase.

The complainant was advised that his service would be cut off if he did not pay the outstanding amount in full. He could not pay and the power was cut off. The Ombudsman made informal inquiries and the utility agreed to meet with the complainant to resolve the dispute. The utility advised him that he did not need to pay the outstanding balance in full before power was restored but could pay over a period of time. The complainant agreed and power was restored.

COMPENSATION FOR LOST PROPERTY

► An inmate contacted the Ombudsman after he was unable to reach an agreement with a Detention Centre to compensate him for misplaced property.

Without notice, the inmate was transferred from one Detention Centre to another and he was unable to secure the property left in his cell. Although most of his property was returned to him, one of the missing items was a textbook for a course that he was taking by correspondence.

The Centre decided to replace the textbook rather than provide him with cash compensation. After Ombudsman staff reviewed the facts of the case with the institution, it was agreed that the earlier resolution was unsatisfactory to the inmate because he had completed the course before he received the replacement textbook.

The inmate and institution were then able to agree on what was considered fair compensation.

INMATE MEDICAL

CONCERNS ADDRESSED

► An inmate contacted Ombudsman Ontario concerning his medical status and the denial of his request for the Temporary Absence Program (TAP). He was diagnosed HIV positive after undergoing blood work and tests at a nearby hospital. He questioned the length of time the hospital and the institution took to assess his medical status so he could be placed on a medication program. He applied to his institution for the Temporary Absence Program on compassionate and employment grounds. He wanted to be closer to his spouse and children because of the stress his family was experiencing and claimed that he was not allowed to present himself to the TAP Committee with his request.

The Ombudsman made an informal inquiry with the institution about the inmate's concerns. The Superintendent of the institution was unaware that the results of the hospital tests had not been received and that a medical program had not been implemented. He agreed to have the Health Unit make inquiries. The Superintendent verified that



although there were other circumstances concerning the denial of the inmate's request for TAP, he did have an appeal process available to him and would be able to present himself to the TAP Committee. He contacted Ombudsman Ontario to advise us that the institution made arrangements for him to see an HIV specialist at the hospital and counselling would be provided to him and his family. He also has a TAP hearing scheduled, at which time the institution will review his concerns.

Complainants sometimes call to express their thanks for our help.

INCONSISTENT POLICIES

► An inmate contacted the Ombudsman about his right to wear religious apparel. Upon investigation, it became apparent that there was no province-wide policy with respect to the wearing of religious apparel by inmates. The lack of a Ministerial policy allowed each institution to determine its own policy on what is considered to be permissible attire.

The information gathered by Ombudsman staff on this issue was discussed with the Ministry which acknowledged the apparent lack of consistency. It has undertaken a comprehensive consultation with representatives of a variety of groups in order to draft a policy that will respond appropriately to this type of issue.



*Ombudsman Ontario
is called upon from
time to time to sup-
port other jurisdictions
in their efforts to
establish or improve
Ombudsman services.*

ACTIVITIES OF THE OMBUDSMAN

OMBUDSMAN PRESENTATIONS

The Ombudsman spoke and/or presented papers at these venues during 1993-94:

YWCA Annual Meeting

Toronto
April 14, 1993

Haldimand Board of Education

Newstart Alternative Education Program
Six Nations of the Grand River
April 16, 1993

National Appellate Court Seminar

Montreal, Quebec
April 20, 1993

Haldimand Women's Committee

Ontario Federation of Agriculture
Annual Daffodil Luncheon
Dunnville, Ontario
April 21, 1993

North Shore Board of Education

Elliot Lake, Ontario
April 27, 1993

Renaissance Seniors' Centre

Elliot Lake, Ontario
April 27, 1993

W.H. Collins Centre

Elliot Lake, Ontario
April 27, 1993

Roberta Bondar Place

Sault Ste. Marie
April 28, 1993

Sault College

Sault Ste. Marie
April 28, 1993

Carrefour Francophone

Sudbury
May 19, 1993

St. Andrew's Place

Sudbury
May 19, 1993

Science North Cavern

Sudbury
May 19, 1993

United Way of Greater Toronto

AGM & Volunteer Recognition Luncheon
Toronto
May 25, 1993

University Women's Club of Brantford

Annual Banquet
Brantford, Ontario
May 26, 1993

University of Wilfrid Laurier

Convocation Address
Waterloo, Ontario
May 29, 1993

Council of Canadian Administrative Tribunals

Ottawa
May 31, 1993

International Ombudsman Institute

Board of Directors Meeting
Wellington, New Zealand
October 4 - 8, 1993

University of Western Ontario

Convocation Address
London, Ontario
October 21, 1993

Society of Professionals in Dispute Resolution (SPIDR)

21st Annual Conference
Toronto
October 21 - 24, 1993

National Ombudsman Conference

Toronto
November 2 - 4, 1993

L'Arche Association of Calgary

November 19, 1993

Provincial Association of Senior Managers

Sixth Annual General Meeting
Toronto
February 4, 1994

Elizabeth Fry

"Rebels for a Cause" Fundraiser
Toronto
February 8, 1994

United States Association of Ombudsmen

Annual Conference
Keynote Address
Phoenix, Arizona
February 9 - 12, 1994

Six Nations of the Grand River Band Council

Band Council Meeting
Brantford, Ontario
February 28, 1994

London Board of Education

Symposium on Equity
London, Ontario
March 3, 1994

Bahá'í Community of Canada

Annual Race Unity Awards Presentation
Ottawa, Ontario
March 21, 1994

NATIONAL AND INTERNATIONAL ACTIVITIES

As democracy has spread around the world, so has the Ombudsman institution. Today, about 150 institutions performing Ombudsman functions have been established in over 60 countries. In the past year Ombudsman offices were created in Costa Rica, Argentina, Ghana, Lesotho, Gambia and the Seychelles. A number of other countries are considering this step as are some jurisdictions closer to home. In Arizona, for example, there is a Bill before the state legislature to create a state level Ombudsman.

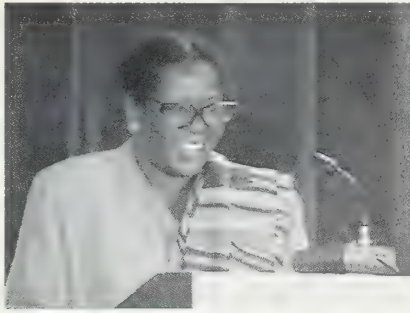
Ombudsman Ontario is called upon from time to time to support other jurisdictions in their efforts to establish or improve Ombudsman services by providing moral support, sharing case management and investigative techniques, systems and other administrative expertise and strategies to enhance public awareness and access. Over the past year Ombudsman Ontario welcomed delegations to our office from Thailand, New Zealand, Belgium, Austria, Sri Lanka, Uganda, Alaska and Michigan. The Ombudsman also responded to a number of written requests for assistance.

The International Ombudsman Institute is located in Alberta. As a member of the Board of Directors of the Institute, the Ombudsman attended the annual board meeting held last October in New Zealand. The Ombudsman also delivered the keynote address at the annual conference of the United States Association of Ombudsman and attended meetings with members of the Arizona Legislature in Phoenix where the conference was held.

NATIONAL OMBUDSMAN CONFERENCE

Each year all provincial Ombudsman and federal Ombudsman-like offices meet to discuss issues of mutual interest and concern. It was Ontario's honour to host the conference this year and delegates from Alberta, British Columbia, Manitoba, Nova Scotia, Saskatchewan, Quebec, the Northwest Territories, Ottawa and the United States were in attendance. These meetings provide each Ombudsman with a valuable opportunity to discuss common challenges and to debate approaches and strategies they can use in the future.

There were several guest speakers at the Conference and opportunity for discussion with them on topics of mutual interest, including: Ombudsmanship in a Time of Fiscal Restraint; Challenges on the International Horizon; Recent Trends in Canada - Challenges to Ombudsmanship; Accountability vs Independence of the Ombudsman; and Ombudsman as Mediator. During the two day conference, the Lieutenant Governor hosted a reception for the delegates and provincial Members of Parliament, and the Speaker, David Warner hosted a luncheon.



RECENT TRENDS IN CANADA-
CHALLENGES TO OMBUDSMANSHIP
Akua Benjamin Professor and
Community Activist

ACCOUNTABILITY VS
INDEPENDENCE OF
THE OMBUDSMAN
Daniel Jacoby Protecteur
du citoyen du Québec



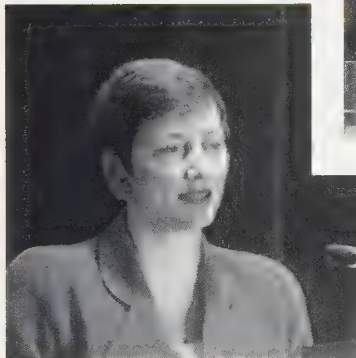
John P. Bell Partner,
Shibley, Righton



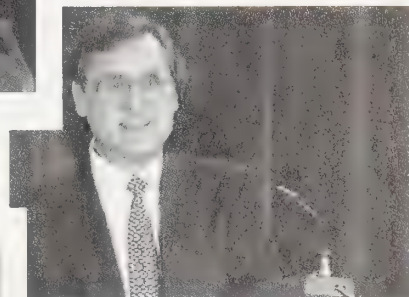
OMBUDSMAN AS MEDIATOR
Dulcie McCallum Ombudsman
of British Columbia



Nathalie Rockhill Manager,
Conflict Resolution Service
St. Stephens Community House



OMBUDSMAN IN A
TIME OF FISCAL RESTRAINT
Glenna Carr Vice President,
Corporate Affairs Laidlaw Inc.



CHALLENGES ON THE
INTERNATIONAL HORIZON
Stephen Lewis former
Ambassador for Canada to
the United Nations



Mary-Woo Sims Human Rights and
Employment Equity Program Manager,
Metro Toronto

STATISTICAL DATA

STATISTICAL INFORMATION SUMMARY

- During the year the Ombudsman dealt with 36,144 inquiries and complaints (33,920 in 1992-93).
- Complaints increased 13% to 9,273 (8,237 in 1992-93) while inquiries increased 5% to 26,871 (25,683 in 1992-93).
- In 25,536 or 71% of the cases (23,842 or 70% in 1992-93) no further action was required or possible beyond giving of a referral or making an inquiry on behalf of the complainant.
- In 1,595 or 4% of the cases (1,827 or 5% in 1992-93) even though the complaint was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.
- There were 1,809 or 5% cases discontinued (1,953 or 6% in 1992-93). Of these, 1,412 were discontinued by the Ombudsman because an adequate alternative remedy was available to the complainant, or no further involvement was required.

Statistics Highlights

fiscal 1993-94 compared to 1992-93

	1993-94	92-93
Increase in written complaints and inquiries	13%	4%
Increase in verbal complaints and inquiries	5%	1%
Average days to resolve written complaints and inquiries	13	19
Number of days required to resolve 90% of written complaints and inquiries	72	107

Verbal and Written Complaints and Inquiries

by final resolution

	Verbal and written complaints and inquiries		
	1993-94	92-93	91-92
Complaint resolved by Ombudsman	907	886	1,095
Investigation discontinued	1,809	1,953	2,040
No action possible	880	1,202	1,321
Resolution facilitated/Referral given/Inquiry made	32,548	29,879	28,805
Totals	36,144	33,920	33,261

GLOSSARY

VERBAL COMPLAINT OR INQUIRY

Complaint or inquiry usually received over the telephone.

WRITTEN COMPLAINT OR INQUIRY

Complaint or inquiry received by note or letter with signature of complainant.

RESOLUTION FACILITATED/REFERRAL GIVEN/INQUIRY MADE

Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.

NO ACTION POSSIBLE

No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the complaint is anonymous, or it is beyond our capacity to facilitate a resolution.

DISCONTINUED BY OMBUDSMAN OR COMPLAINANT

The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the complainant does not wish to pursue the matter further for various reasons.

RESOLVED BY OMBUDSMAN IN FAVOUR OF COMPLAINANT

The complaint is supported in favour of the complainant.

RESOLVED BY THE OMBUDSMAN IN FAVOUR OF THE GOVERNMENT ORGANIZATION

The complaint is not substantiated and therefore not supported.

RESOLVED IN FAVOUR OF GOVERNMENT ORGANIZATION WITH SUGGESTIONS

The complaint was not supported but suggestions for change of policy or systems is recommended to the Government organization.

RESOLVED BY OTHER MEANS

The complaint is resolved with minimal involvement of the Ombudsman.

Initial Contacts

Written, verbal or personal visit

36,144

33,920

33,261

Verbal Complaints and Inquiries

26,871

25,683

25,323

Against Provincial Government

11,798

12,521

11,997

Provincial Ministry of S.G. & C.S.*

7,078

6,237

5,981

Other Provincial Ministry or Organization

4,720

6,284

6,016

Against Non-Provincial Organization

15,073

13,162

13,326

Federal

2,573

2,595

2,761

Municipal

2,736

2,338

2,087

Private

7,974

6,615

6,945

Courts

885

775

668

Other

905

839

865

Provincial Ministry of S.G. & C.S.*

6,995

6,066

5,659

83

171

322

7,078

6,237

5,981

Other Provincial Ministry or Organization

4,438

5,909

5,665

282

375

351

4,720

6,284

6,016

Against Non-Provincial Organization

14,780

12,764

12,860

293

398

466

15,073

13,162

13,326

◀ Resolution facilitated/
Referral given/Inquiry made

◀ No action possible

◀ Totals of all resolutions

Verbal and Written Complaints and Inquiries

by organization or agency

	Verbal complaints and inquiries			Written complaints and inquiries			Totals		
	1993-94	92-93	91-92	1993-94	92-93	91-92	1993-94	92-93	91-92
Provincial	11,798	12,521	11,997	7,509	6,987	6,960	19,307	19,508	18,957
Non-Provincial:									
Federal	2,573	2,595	2,761	318	204	143	2,891	2,799	2,904
Municipal	2,736	2,338	2,087	525	387	294	3,261	2,725	2,381
Private	7,974	6,615	6,945	786	538	421	8,760	7,153	7,366
Courts	885	775	668	94	76	81	979	851	749
Other	905	839	865	41	45	39	946	884	904
	15,073	13,162	13,326	1,764	1,250	978	16,837	14,412	14,304
Totals	26,871	25,683	25,323	9,273	8,237	7,938	36,144	33,920	33,261

*Provincial Ministry of the Solicitor
General and Correctional Services

LEGEND

•
Fiscal 1993-94
Fiscal 1992-93
Fiscal 1991-92

Written Complaints and Inquiries

9,273
8,237
7,938

Against Provincial Government

7,509
6,987
6,960

Provincial Ministry of S.G. & C.S.*

1,721
1,658
1,951

Other Provincial Ministry or Organization

5,788
5,329
5,009

Provincial Ministry of S.G. & C.S.*

853
887
1,033
243
273
386
266
186
167
11
10
26
59
54
95
271
220
226
18
28
18
1,721
1,658
1,951

Other Provincial Ministry or Organization

559
596
419
154
197
202
335
339
450
199
262
324
37
35
33
4,378
3,749
3,471
126
151
110
5,788
5,329
5,009

Against Non-Provincial Organization

1,764
1,250
978

Federal

318
204
143

Municipal

525
387
294

Private

786
538
421

Courts

94
76
81

Other

41
45
39

Against Non-Provincial Organization

0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
1,686
1,171
924
78
79
54
1,764
1,250
978

◀ Investigation discontinued
by Ombudsman

◀ Investigation discontinued
by complainant

◀ Resolved by Ombudsman
in favour of complainant

◀ Resolved by Ombudsman
in favour of Government

◀ Resolved by Ombudsman
by other means

◀ Resolution facilitated/
Referral given/Inquiry made

◀ No action possible

◀ Totals of all resolutions

Verbal and Written Complaints and Inquiries Against Provincial Government Organizations

by final resolution

	Verbal complaints and inquiries			Written complaints and inquiries			Totals		
	1993-94	92-93	91-92	1993-94	92-93	91-92	1993-94	92-93	91-92
Complaint resolved by Ombudsman									
in favour of complainant				601	525	617	601	525	617
in favour of Government organization				181	227	295	181	227	295
in favour of Government organization with suggestions by other means				29	45	55	29	45	55
Investigation discontinued									
by complainant				397	470	588	397	470	588
by Ombudsman				1,412	1,483	1,452	1,412	1,483	1,452
Resolution facilitated/Referral given/Inquiry made	11,433	11,975	11,324	4,649	3,969	3,697	16,082	15,944	15,021
No action possible	365	546	673	144	179	128	509	725	801
Totals	11,798	12,521	11,997	7,509	6,987	6,960	19,307	19,508	18,957

Verbal and Written Complaints and Inquiries Against the Ministry of Solicitor General and Correctional Services

by subject matter

	1993-94	92-93	91-92			
Classification/Transfer/Committal	1,259	1,381	1,041	Prescription requests denied	59	59 134
Health care inadequate or denied	1,211	1,085	1,328	Glasses, eye care	56	139 72
Other	655	280	378	Transfer federal institution	56	57 29
Living conditions in general	623	490	490	Living conditions-overcrowding	55	36 73
Inmate misconduct	477	395	273	Charter of Rights	54	27 36
Personal/Inmate property	387	588	384	Telephone access/Use	53	76 73
Staff conduct	377	384	403	Temporary absence pass discretionary program	50	474 337
Living conditions-canteen allowance program	337	298	308	Community Resource Center	50	25 43
Discretionary program decisions	261	245	322	Second opinion denied	43	45 19
Living conditions-food/diet	239	175	280	Ombudsman letter denial	39	13 20
Parole	208	151	195	Secure facility	39	11 15
No response to request	171	79	65	Religious or lifestyle diet	37	63 65
Administrative segregation	169	106	9	Searches	31	13 11
Dental	147	157	167	Living conditions smoking	29	39 48
Correspondance	143	148	134	Mental health care	26	40 40
Medical Diet	120	114	102	Freedom of Information/Protection of Privacy	26	26 27
Yard	119	78	69	AIDS, hepatitis	18	28 40
Protective custody	100	66	57	Ombudsman	18	12 21
Living conditions-segregation	99	128	152	Bailiffs	17	0 0
Pre-release	94	38	33	Medical segregation	15	24 30
Health-other	91	54	73	Probation	14	0 3
Institutional discipline other than inmate misconduct	83	86	76	Open facility	4	4 6
Lost earned remission punitive segregation	82	58	36	Intermittent sentence	2	7 4
Staff misconduct-assault	79	96	118	Electronic Monitoring	1	0 0
Classification other	70	36	43	Policy/Practice	0	100 209
Visiting privileges	68	60	74	French	0	0 6

AUDITED STATEMENT FOR 1993-94

NOTES TO FINANCIAL STATEMENT MARCH 31, 1994

1. ACCOUNTING POLICIES

A. *Basis of accounting.* The Office uses a modified cash basis of accounting which allows an additional 30 days to pay for goods and services pertaining to the fiscal year just ended.

B. *Furniture, equipment and leasehold improvements.* Expenditures on furniture, equipment and leasehold improvements are expensed at the time of purchase.

2. EXPENDITURE AND MISCELLANEOUS REVENUE

Expenditures are made out of moneys appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.

3. PENSION PLAN

The Office provides pension benefits for its permanent employees through participation in the Public Service Pension Fund, established by the Province of Ontario. The Office's share of contributions to the Fund during the year was \$557,586 (1993 - \$536,454) and is included in employee benefits. This amount includes current contributions and additional payments required to cover the Office's share of the Fund's unfunded liabilities on January 1, 1990. These additional payments commenced in 1990 and will continue over forty years.

Statement of Expenditures for the year ended March 31, 1994

	1994	1993
	\$	\$
Expenditures		
Salaries and wages	5,824,221	5,596,322
Employee benefits	1,207,883	1,196,516
Transportation and communication	465,186	454,891
Services	1,831,926	1,834,852
Supplies and equipment	363,373	346,067
	<u>9,692,589</u>	<u>9,428,648</u>
Less miscellaneous revenue	12,963	3,774
Total expenditures	<u>9,679,626</u>	<u>9,424,874</u>

See accompanying notes to financial statement.

Approved:

Roberta Jamieson

Ombudsman

Auditor's Report

To the Ombudsman

I have audited the statement of expenditures of Ombudsman Ontario for the year ended March 31, 1994. This financial statement is the responsibility of that Office's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 1994, in accordance with the accounting policies described in note 1 to the financial statement.

Toronto, Ontario
May 12, 1994

Erik Peters
Erik Peters, FCA
Provincial Auditor

OMBUDSMAN ONTARIO STAFF

The Ombudsman has been assisted this year by the following permanent staff of professionals:

ADDO, Kwame	CRAWFORD, Jackie	HOLMES, Jackie	OLASO-PEZESHKIAN, Rachel
AHMED, Safia	CREAL, Mari	HUTCHINSON, Esla	ORR, Michael
AIKMAN-SPRINGER, Judy	CREAN, Fiona	IRONS, Alison	ORTVED, Janet
ALLAN, John	CUMMINGS, Penny	IRVINE, Thomas	PARADISO, David
ANDERSON, Lee	DEAR, Rosie	JOHNSON, Gini	PEASE, Irv
ANDERSON, Marney	DELISLE, Gerard	KALISZ, Eva	PENFOLD, Kathy
ANG, Jeanne	DENNIE, Jean	KANG, Mary	PETTIGREW, Laura
ANGUS-JONES, Christine	DEODAT, Zalina	KERSHAW, Janet	POPA, Manuela
ARKELL, Tim	DIXON, Millicent	KIESECKER, Barbara	PRESNER, Matilda
BAKER, Betty	DRAWBELL, Steven	KING, Dianne	RAY, Wendy
BAPTISTA, Sherry	DURJANCIK, Ellen	LA ROSA, George	ROBERT, D'Arcy
BEATTIE, Karen	ETHIER, Hannalie	LAWRENCE, Jane	ROBINSON, Linda
BERNIER, Suzanne	EVANS, Cathy	LEE, Allan	RODGERS, Faye
BERTRAND, Julie	EYLER, Paula	LEE, Barbara	ROSE, Janet
BLACKWOOD, Calvin	FARNCOMBE, Peter	LEE, Judith	SANSONETTI, Josie
BOSWORTH, Robin	FARRELL, Nora	LEGARDO, Lourdes	SCHULZ, Wolfgang
BOUCHER, Lorraine	FENTON, Mary Jane	LEIGH, Adam	SEMENCIW, Joe
BOURNS, Maureen	FERA, Jack	LEONARD, Joyce	SILVA, Madalena
BRINDLE, Ginette	FRASER, Simon	LUCAS, Lourine	SIMPSON, David
BRYANT, Dale	FRIMPONG, Kwasi	MARCUZ, Vic	SOLOMON, Naomi
CARL, Mary	GAGNE, Micheline	MAY, Laurel	TAYLOR, Michael
CARLINO, Gerry	GELAUDE, Inez	MEZIN, Eric	TERRENCE, Jo-Ann
CASSON-ROBIN, Barbara	GLASIER, Anita	MONETTE, LaVerne	THOMPSON, Reid
CHAMBERS, Sharon	GRIFFIN, Dianne	MORRA, Dean	VIRC, Elizabeth
CHEFF, Don	HART, Anne	MORRIS, Kim	WESTON, Elizabeth
COOLMAN, Joyce	HASLAM, Sue	NICHOLAS, James	WILCOX, Shelly
CORBEIL, Lise	HEDDEN-JENSEN, Alison	NICHOLSON, Sherrie	WONG, Jennifer
CORREIA, Jackie	HIRST, Barbara	NUGENT, Mary Elizabeth	WORTHINGTON, Barbara
			YOUNG, Pam

The Ombudsman also wants to recognize the contributions of a number of temporary staff who have assisted with a variety of projects over the past year.

THE OMBUDSMAN'S DISTRICT OFFICES

Please feel free to make collect calls to any of the locations listed below.

1 Kenora Office
12-308 Second Street S.
Kenora, Ontario
P9N 1G4
(807) 468-2851
468-2853 (fax)
468-2972 (TDD)

2 London Office
920 Commissioners Road E.
London, Ontario
N5Z 3J1
(519) 668-0511
668-7187 (fax)
668-7182 (TDD)

3 North Bay Office
450 Main Street W.
Unit #2
North Bay, Ontario
P1B 2V2
(705) 476-5800
497-9931 (fax)
476-4156 (TDD)

4 Ottawa Office
151 Slater St., Unit #308
Ottawa, Ontario
K1P 5H3
(613) 239-1487
239-1489 (fax)
232-8569 (TDD)

7 Thunder Bay Office
213 Red River Rd.
Thunder Bay, Ontario
P7B 1A5
(807) 345-9235
345-0378 (fax)
346-9130 (TDD)

5 Sault Ste. Marie Office
148 Great Northern Rd.
Unit #2
Sault Ste. Marie, Ontario
P6B 4Y9
(705) 945-6914
945-6916 (fax)
945-6884 (TDD)

8 Timmins Office
85 Pine Street St.,
Suite 108
Timmins, Ontario
P4N 2K1
(705) 268-2161
268-8377 (fax)
268-2885 (TDD)

6 Sudbury Office
66 Elm Street
Suite 108
Sudbury, Ontario
P3C 1R8
(705) 688-3116
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If you would like more information about
Ombudsman Ontario or would like to file a
complaint, please write to or call any of the
District Offices as listed on the previous
page or contact the Toronto office:

Ombudsman Ontario
125 Queen's Park
Toronto, Ontario
M5S 2C7

English toll free line: 1-800-263-1830
French toll free line: 1-800-387-2620
TTY line : 1-416-586-3510

This Annual Report is available in English,
French and on audio-cassette.



OMBUDSMAN
ONTARIO



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'94/'95
Annual Report

Looking Ahead
on the
20th Anniversary



OMBUDSMAN
ONTARIO



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94/95 Annual Report

June 21, 1995

The Hon. David Warner, Speaker
Legislative Assembly
Province of Ontario
Queen's Park

Dear Mr. Speaker:

I am pleased to present to the Legislature the Annual Report of the Ombudsman for the period April 1, 1994 to March 31, 1995. Pursuant to Section 11 of the Ombudsman Act, I present it to you so that you might cause the Report to be laid before the Assembly.

Yours truly,

Roberta Jamieson

Roberta L. Jamieson
Ombudsman



Vision

Ombudsman Ontario will strive to ensure that people are served justly, equitably, and fairly by Ontario governmental organizations.

Mission Statement

In striving to achieve this Vision, Ombudsman Ontario is committed to the following goals for fairness and service:

- Investigate and resolve complaints efficiently;
- Deliver relevant, timely, impartial and accessible services;
- Foster objective standards of governmental administration;
- Act as a resource to governmental organizations and the public to prevent future complaints;
- Increase public awareness of Ombudsman Ontario's services;
- Be ethical and accountable;
- Encourage teamwork through consultation and communication;
- Monitor and evaluate our organizational performance;
- Realize individual potential through pro-active human resource practices.

This Annual Report is some measure of where we started, how far we have moved along, how much further we have to go, and how we are planning to get there.

In other situations, complexity as well as volume contributes to delay. Numerous complaints have been received about delays in the scheduling of hearings by the Workers' Compensation Board. We have also investigated delay of the Employment Practices Branch, where it is not uncommon to wait a year before a decision is rendered. In some Worker Adviser offices, injured workers must wait two years to obtain representation to advance their claims. The Workers' Compensation Appeals Tribunal is also experiencing a caseload crisis that has resulted in an inability to render decisions in a timely manner. Other examples could be cited. We are keenly aware of the impact of these delays and are monitoring the progress these agencies are making to improve.

We are also told that letters to Ministers and heads of governmental organizations about administrative matters take months to receive a response, if, in fact, any response is received at all. It is obvious that when the public considers government to be unresponsive to their concerns, the credibility of government itself is undermined.

Delay is a factor increasingly experienced by the Franco-Ontarian community. Access to government services in French continues to be a major challenge. Local offices may offer excellent service, but action at headquarters may be slow because correspondence must be translated or the availability of designated bilingual staff is insufficient to provide the same level of service as is available in English. It is not acceptable that French-speaking Ontarians must choose between being served in their own language and foregoing their right to service in French in order to be served as promptly as English-speaking neighbours.

True, all of these circumstances are taking place in a fiscal environment where the government is dealing with both new and old financial problems of considerable magnitude. Increased deficits over the years now require an inordinate amount of revenues to pay interest on old debts, reducing the amount of money available to provide services. Cutbacks, hiring freezes, and budget economies have restricted the ability of many governmental organizations to perform their mandates at the level of service that the public has come to expect.

There are many ways in which governments can react to circumstances such as these. It is unacceptable for government to handle cases with haste, rush decisions, or pressure clients to accept decisions that are unacceptable. Elimination of delay can never become the justification for unfairness.

In these times of "fiscal restraint" there is also the danger of government reacting by taking into account only the "bottom line" rather than relying upon a system of values to determine priorities. More taxpayers are calling for "value for money", meaning

value only as measured in dollars and cents. Unfortunately, our accounting systems have been designed to consider short spans of time rather than long-term interests. The costs of side-effects of decisions — indirect social costs, for example — are usually not considered. There is no denying that governments must take fiscal realities into account, but true democracy can take place only if the public is presented with a comprehensive, long-range view so that all available options may be fairly considered as means of upholding national values.

The Ombudsman must take the current economic climate into account when arriving at findings and decisions. It is not acceptable, however, for an organization to plead lack of resources as a reason for not cooperating fully with an Ombudsman's investigation or for not acting fairly. While fewer resources may explain a general decline in standards of service, this can never be used as a justification for unfairness.

For the Ombudsman, lowered service standards for governmental organizations as a result of funding cutbacks poses a special problem. The number of complaints increases, and time compounds the complexity of the issues. Yet the provision of funding is a matter of government policy, not of administrative fairness.

In Ontario's larger centres, there is an increasing demand for culturally appropriate services. Some agencies are seen as inflexible and insensitive in accommodating differences. It will be a major challenge for government to provide appropriate service delivery for an increasingly diverse population at the same time that it undertakes service cutbacks to achieve economies. However, if government resorts to pointing to the letter of the law as the limit to which it is willing to go, large segments of the community are likely to decide that government has failed to meet their legitimate needs.

One factor affecting complaints to the Ombudsman is the uneven manner in which governmental organizations have reacted to the new fiscal realities. Some organizations have been able to "work smarter" while others seem to have made little visible effort. The result is a patchwork pattern of quality across the government system. The public is confused by the apparent inconsistencies, and is not particularly sympathetic to public servants who plead they lack resources.

One way in which Ombudsman Ontario has attempted to deal with this new environment is to approach complaints at a systemic level in order to ensure broader reform which benefits greater numbers of people while resolving the issue affecting the individual. This systemic approach to complaint resolution will also ensure that governmental organizations adopt policies and procedures which respond appropriately to the diversity of today's Ontario. This also makes efficient use of the Ombudsman's investigative resources.

A second way Ombudsman Ontario is dealing with the new environment is by adopting and promoting a problem-solving approach. This means educating agencies that the Ombudsman is not seeking perfection, but rather the correction of errors as they occur. The objective is not to find fault, but rather to find solutions. This allows the public service to participate in crafting a solution that is understood to take into account justice for the client, but in a manner that is acceptable also to the agency.

A third approach that is beginning to prove useful is the promotion of the Ombudsman as a resource that can be utilized by governmental organizations seeking to improve relations with clients. More agencies are consulting with the Ombudsman in the early stages of internal policy and procedural reviews.

In times of scarcity, people are able to endure even quite difficult circumstances if they are assured they are being treated fairly. When a population is unvarying, treating everyone equally is fair. But when a population is diverse, the determination of fairness necessarily involves questions of equity — it would be most unfair to treat diverse people equally. Differences and special circumstances must be respected and taken into account if fairness is to prevail, and this means making fundamental changes in the way we do business and relate to each other.

Equity brings with it surprising benefits, since equity encourages the full participation of all members of society, encouraging each of us to contribute his or her rich unique talents and viewpoints to society's well-being. In this way, equity becomes an investment.

Generally, equity is still an unfamiliar concept for most Canadians, although individually, we are each accustomed to demanding it for ourselves.

Few Canadian institutions were established with equity in mind. However, the provision of equitable service by governmental organizations — indeed, by all sectors — has become an imperative, particularly in Ontario with its increasing diversity.

Service equity is a strategic response to systemic barriers. Achieving service equity is a painful but necessary process. It helps if equity is seen as a positive and important step for the future, rather than a criticism of the past or something that is being imposed on society. Equity must be understood as something offered in all relationships, not just relationships with “minorities”.

Equity is a concept known in law and in practices, for example, Employment Equity. We are less familiar with an equally pressing need for service equity in education, contract letting, and in housing.

For those who have built their lives on older outmoded concepts that emerged from colonialism, patriarchy, or ideas of racial superiority, moves to equity can seem very threatening. Some react with paralysis, unable to deal with realities. Others feel they are “losing control”. They react by seeking “equity checklists” or a manual on how to do things equitably. They express frustration when they are told that equity is the product of sensitive attitudes which must be developed and balanced so as to negotiate accommodation.

Establishing service equity in the Ombudsman organization has been a fascinating journey that has better equipped us to work with governmental organizations in their own quest for equity in service provision. It has meant a rigorous rethinking of our standards for investigations, investigative techniques, contract letting, and labour relations. Staff have built skills in recognizing and delivering on equity. Previously, the challenge of providing equity was faced primarily by those who relate to the public on a daily basis. Others in the organization were protected from these realities. Now, however, Ombudsman Ontario is coming to grips with equity issues in every department, every office, every file.

We have learned that equity is not a once-and-for-all determination but rather an objective that must be sought after on a daily basis as differences are accommodated and included.

Our experience is being made available to others. We have, for example, acted as a resource in assisting the Society of Ontario Adjudicators and Regulators to provide a framework for developing service equity in the administrative justice system.

The Ombudsman also faces the same tensions as do governmental organizations with respect to accommodating diversity — persons who see themselves as being in the “mainstream” feel their complaint has not been supported because they are not members of a visible minority, while members of racial groups feel their cases were not supported because they are not white. Men feel that women are given preferential treatment, and women feel their case would have been handled differently if they had been men.

This is understandable. Unfortunately, there are still too many examples of differential treatment to refresh the consciousness of persons who historically have faced discrimination and marginalization. The result is often a natural impairment of ability to be objective as to whether treatment has been fair. This circumstance increases the need for decision-making to be as transparent as possible, and for communications and service delivery to be above reproach in order to reduce suspicions and to begin healing.

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This is understandable. Unfortunately, there are still too many examples of differential treatment to refresh the consciousness of persons who historically have faced discrimination and marginalization. The result is often a natural impairment of ability to be objective as to whether treatment has been fair. This circumstance increases the need for decision-making to be as transparent as possible, and for communications and service delivery to be above reproach in order to reduce suspicions and to begin healing.

Within Ombudsman Ontario, we continue to improve our effectiveness in delivering appropriate services. We are resolving and closing an increasing number of complaints at an earlier stage, without the formalities of a full and costly investigation. This often means resolving conflicts in a non-adversarial manner. We also have increased efficiency by using computers for quick access to relevant information. We have developed appropriate performance standards and objectives for equitable service delivery. We continue to establish ongoing partnerships in various sectors of the community.

Compared to last fiscal year, there was a reduction in the number of inquiries received, while complaints within the Ombudsman's jurisdiction have increased. The decrease in inquiries seems linked with educational efforts by the Ombudsman's staff to help the public understand the kinds of issues with which the Ombudsman can be of assistance and how they can themselves be more skillful in directly advancing their complaints. We have helped many governmental organizations improve their own management of complaints and inquiries. In addition to the economic situation's effect on the number of complaints, our aggressive efforts to improve access and outreach also contributed to the increase in complaints.

We have the satisfaction of seeing Ontario's democracy being shaped and improved by ordinary people who report the glitches, the gaps, and the problems in service delivery and decision-making. Ironically, by being the closest to the problems, we gain an appreciation of the high standards generally upheld by Ontario's very dedicated public servants.

One can only speculate what it will be like to be Ombudsman in 2015, twenty years from now. It is clear that futurists in 1975 would have found it difficult to predict the issues which Ombudsman Ontario is dealing with in 1995, and the rate of change is such that thinking about 2015 can only be done with brave guesses. What we can do, however, is to continue to build an Ombudsman service which has the public's confidence, which is flexible and open-minded in meeting new circumstances, and which is on the leading edge of change so as to demonstrate leadership.

Trends

In analyzing the 31,441 complaints, issues, and inquiries that are brought to the attention of the Ombudsman each year and by making comparisons with previous years, certain trends emerge.

This year, many trends seem to be a result of changes in government caused by reduced resources. The effects of government cutbacks are felt to some degree by all people in Ontario. However, Ombudsman Ontario has been particularly concerned about trends which seem to hit hardest those persons who are already vulnerable or marginalized. Too often, the clients most affected by the changes complain they were not consulted prior to the change being made, even though their interests may be severely affected.

For example, pressure on regional managers of Ontario Hydro to operate within revenues has resulted in an abandonment of a policy of not cutting electrical service in winter if young children are in the home; once service is cut, restoration could require a service fee and payment of a deposit that could be as much as \$700.00. The persons most affected by these policies are those who are economically disadvantaged, young, single mothers, or new Canadians who cannot establish credit. Another example: the Ministry of Health has recently decided that recipients of the Northern Health Travel Grant must use the closest specialist, although there may be valid reasons why another doctor would be preferable.

One of the most sensitive types of changes occurs when an agency changes the access it accords to the public. In some cases, that might mean closing down regional offices and substituting a province-wide comprehensive toll-free telephone inquiry service using new electronic technologies. The Ministry of Consumer and Commercial Relations, for example, has closed its regional Consumer Service Bureaus in favour of an "800" number linked with a computerized answering system. On the other hand, rather than centralize operations, some agencies have chosen regional offices as the means of achieving efficiencies.

An encouraging trend is ministries joining efforts to offer services that are less complex and more accessible to the public. An example of this trend is the "Clearing the Path Project" of the Ministry of Consumer and Commercial Relations, the Ministry of Labour, the Ministry of Finance, and the Ministry

of Economic Development and Trade. Small-business owners can go to any of 13 self-help offices across the province to file forms at a user-friendly computer terminal instead of having to file by mail or in person with each separate agency.

A trend which Ombudsman Ontario is monitoring is that of delegating mandated responsibilities through privatization, contracting-out, and other configurations which could result in removing certain “public services” from the Ombudsman’s scrutiny.

A key element in creating a smooth transition in all these changes is communications. Clients need to know what the changes will mean to the services they rely upon, and what they can or cannot expect.

Delay is increasingly an issue in complaints brought to the Ombudsman. The Family Support Plan, for example, finds that the number of persons who depend upon it to collect funds from support payers has increased year by year, although its resources have not increased proportionately. The Criminal Injuries Compensation Board also has had more demands placed on it as more victims of crime become aware of its existence, but it also has not had a corresponding increase in resources. This means that despite the Board’s best efforts, clients may wait two to three years to have their applications processed and decided.

Joint and Mixed Jurisdictional Matters

Another trend encountered by Ombudsman Ontario is an increase in issues involving joint jurisdiction of First Nations and provincial organizations.

Similarly, there is an increase in mixed jurisdictional matters involving federal and provincial governments, for example, individuals who are being detained by federal immigration officials and being held in provincial correctional facilities.

Multiple Interests in Complaints

When investigating a complaint made by one or more parties about one or more governmental organizations on an issue in which many parties are involved, the Ombudsman must be aware of all interests involved so as to ensure that her actions and recommendations are not prejudicial to any of them. More of these cases are appearing each year, many of them related to environmental, land or resource matters. The Ombudsman has encouraged governmental organizations to involve all parties in discussions leading to a resolution. In particular, the Ministry of Environment and Energy and the Ministry of Natural Resources are taking the lead in using this approach. One new emerging issue, however, is whether in such negotiations the government is carrying out its full share of mandated responsibilities.



Special Reports

During 1993/94, five special reports had been sent to the Legislature's attention. During 1994-95, two of these cases were settled before hearings were held by the Standing Committee on the Ombudsman. Hearings were held on the other three cases. No additional reports were presented to the Legislature.

Freedom of Information and Protection of Privacy Act Amendments

In the past three Annual Reports, the Ombudsman urged the government and the Legislature to take steps to deal with an unfortunate and unintended conflict arising from an interpretation of the *Freedom of Information and Protection of Privacy Act (FIPPA)* as it relates to the *Ombudsman Act*. This is the fourth year the Ombudsman urges the government to take action.

The conflict relates to the Ombudsman's ability to protect information that the Ombudsman has obtained in an investigation and included in correspondence with the governmental organization involved. Under the current interpretation of FIPPA, that information cannot always be protected from subsequent unwarranted third-party access. As a result, the Ombudsman and her staff often must convey information through oral briefings to officials in order to protect confidentiality. There is little justification for this unacceptable situation to continue.

Comprehensive Complaint Resolution Services

Although the people of Ontario have Ombudsman services with respect to most provincial governmental organizations, there are other jurisdictional areas in which the public would benefit from these services. These include Children's Aid Societies, municipal governments, school boards and hospital boards. Previous Annual Reports have discussed this situation in detail. Often these organizations argue, that as local agencies, they already are close to the people they serve and an independent neutral complaint resolution mechanism is not required. This argument apparently fails to convince the thousands of people who each year bring complaints about them to the Ombudsman, whose powers to act on these issues is limited.

The Legislature is once again asked to remedy this situation. Extending the jurisdiction of the Ombudsman to cover these categories of agencies is one option. Other options could also be considered, keeping in mind that the objective is that the people of Ontario have adequate complaint resolution instruments available to them with respect to all governmental organizations which have impact on their lives.

The irony continues that Canada, a nation among the leaders in Ombudsmanship around the world, still does not have a federal Ombudsman. Although most Canadian provincial legislatures have an Ombudsman, the federal government has complaint-resolution mechanisms only in certain specialized areas.

Ontario could take pride in spearheading a movement encouraging the federal Parliament to establish an Officer who would report to it on complaints received regarding federal organizations. Such an Officer would relieve every province's Ombudsman from thousands of inquiries each year that should be dealt with by a federal Ombudsman. Individuals, organizations, and the Legislature itself by resolution could encourage Parliament to undertake this initiative.



Ombudsman Ontario staff continued in 1994-95 to develop a workplace environment that encourages and facilitates each staff person to contribute their best and unique talent and perspective. The continuing improvements have reduced turnover to 6.3 percent in 1994-95. Turnover in the previous fiscal year was 9.4 percent.

The objective of creating a productive workplace has been enhanced by accommodating differences, by solving problems together in a non-adversarial manner, and by improving the ways we relate to each other. We cannot expect staff to relate to others in an equitable manner unless staff members themselves experience equity in their relations with Ombudsman Ontario.

The focus has been on change — not whether change would be made in the way we “do business”, but rather how to change and how to involve everyone in creating change. Our understanding that profound change is always difficult has been reinforced by our own experience.

The Client Research Group, a committee of employees from across the organization has been identifying research and data needs in order to ensure that the organization’s goals of achieving service equity will be met. Its focus is on establishing methodology and practice for identifying systemic barriers potentially experienced by clients using Ombudsman Ontario services. This will also inform our investigations regarding services of provincial governmental organizations.

Some Statistical Insights

Over the past year, Ombudsman Ontario has begun to collect information from clients on a voluntary, confidential basis in order to help us to evaluate and improve our services. We have established that:

- approximately 36% of the people who approach the Ombudsman heard about the services offered through family and friends;
- well over half of the Ombudsman’s clients are persons who are economically disadvantaged;
- 9% are seniors, reflecting their proportionate share of the population generally. Only 7% of clients are youths, however;
- 18% are single parents;
- the numbers of male and female clients are roughly even;
- 9% are persons of colour; 4% are First Nations and aboriginal persons;
- approximately 28% of the clients were people with disabilities, likely reflecting injured workers as well.

Communications has been improved with a new telephone system which provides better client service with savings in various costs. Callers are now also able to use a toll-free number to reach district offices as well as the central office.

We have also developed new videos and display units to let the public know about the Ombudsman's services. Information is available in 18 languages, in Braille and on diskette. Staff are available to provide service in both English and French.

The long-term information systems strategy implementation which we started last year continues to provide staff with easy access to information from their desks. An electronic mail system which includes district offices has improved communications.

Administration has been improved by monthly financial monitoring and reporting of budget and actual expenditures and forecasting for each category of expenditure. Work is under way to develop a computer-based comprehensive accounting system.

A Collective Agreement for Ombudsman Ontario was concluded with the Office and Professional Employees International Union Local 343 in 1994-95 through negotiation. Talks began in June 1993. The OPEIU applied for conciliation in March 1994. There was a two-week labour dispute in May and arbitration was scheduled for December. Negotiations resumed and an agreement-in-principle was achieved in December 1994. The Collective Agreement was ratified by the bargaining membership in February 1995.

Because of the professionalism with which staff approached these issues, client service was maintained through this process. The new agreement provides both management and staff with clear parameters. The contract incorporates progressive language dealing with the concepts of dignity and equity in the workplace, alternative dispute resolution, and joint consultation. A Joint Labour-Management Relations Committee meets regularly to address issues in the workplace. A number of subcommittees have been struck to work on such issues as employment equity, health and safety, job evaluation, compressed work week and flexible work schedules.

Staff continued to develop skills in providing client services through a variety of training and development initiatives. Priority areas continued to be dispute resolution training and anti-racism and equity training. Topical issues, individual short-term skill training and longer-term career development continue to be addressed through a wide variety of seminars and continuing education.

Public Education

Public education is an important activity in fulfilling the Ombudsman's mandate. It is important that all sectors of Ontario's diverse population know about Ombudsman Ontario, know how to access its services and understand what it can and cannot do. The continuing focus in the last year has been reaching persons who are both less likely to know about the Ombudsman and who are more likely to need Ombudsman services. This includes agricultural communities, women and single mothers, people who are economically disadvantaged, youth, seniors, persons with disabilities, First Nations and aboriginal groups, Francophones, members of racial minorities, recent immigrants and refugees.

This often means meeting people in places and on issues which are most important to them. For example, members of Ombudsman Ontario staff are active with the Canadian Centre for Victims of Torture, improving contacts and relations with the refugee and recent immigrant communities.

In each of Ombudsman Ontario's ten district offices, strategic plans are made for a public education program to fit needs of people in the area. Among the highlights was Ombudsman Ontario's promotion of the organization of a highly successful Community Information Fair held in Kenora along with a workshop on networking. Self-help groups, grass roots community organizations and government offices were involved in this Fair. The London office utilized a widely attended International Plowing Match to do public education on Ombudsman services for the agricultural community. Public education efforts took place at province-wide meetings such as the Conference of Teachers of English as a Second Language and the Older Adult Centres' Association of Ontario. Northern district office staff also made field trips to isolated First Nation communities.

Ombudsmanship **Internationally**

Ontario continues to play an important role in the extension of the Ombudsman concept around the world, particularly in emerging democracies anxious to improve recognition of human rights.

During the year, the Ombudsman exchanged correspondence and annual reports on the subject of Ombudsmanship with officials in many countries. Among the delegations visiting Ombudsman Ontario in 1994-95 were those from Korea, Hong Kong, the Slovak Republic, Japan, Trinidad, Estonia, New South Wales (Australia), and Antigua.

Ontario's Ombudsman is a member of the Board of Directors of the International Ombudsman Institute (IOI), representing the North America Region. The IOI is formed by Ombudsman throughout the world with headquarters in Alberta. The Ombudsman attended a joint meeting of Canadian and U.S. Ombudsman in November.

The Ombudsman also attended an October meeting of the IOI Board in Buenos Aires, the site of the IOI's 1996 Conference. The meeting coincided with the installation of Argentina's first national Ombudsman and with the 3rd Latin American Symposium on the Ombudsman and the Ibero-American Symposium on the Ombudsman attended by representatives from Bolivia, Paraguay, Mexico, Chile, Brazil, Argentina and Spain as well as members of the IOI Board.

The Ombudsman was invited to an international conference of Ombudsman in Taiwan where she spoke on alternative methods of dispute resolution and chaired a workshop. On her return from Taiwan, the Ombudsman used a stop-over in Hong Kong to give a seminar to the Hong Kong Commissioner of Administrative Complaints, his staff and the Ombudsman of Macau.

Ombudsmanship **Nationally**

The National Conference of Canadian Ombudsman was held in Victoria, British Columbia, in June. Ontario's Ombudsman participated in a panel discussion of "Accountability of Government: The Roles of the Legislative Officers".

The panel also included British Columbia's Information Commissioner, Auditor General, and Conflict of Interest Commissioner. Two Ombudsman Ontario staff members also attended the annual conference which included sessions on Ombudsmanship and Child Advocacy to link it with a special Youth Conference taking place in Victoria. Other sessions included "The Ombudsman and Local Government" and an overview of computer systems being used by Ombudsman.

Several Ombudsman Ontario staff attended the annual National Investigators Workshop held this year in Ottawa by the RCMP Public Complaints Commission. Seminars included "Setting Objectives and Developing a Plan for a Major Investigation" presented by David Brittain, principal from the Office of the Auditor General; "Interviewing and Statement Analysis", presented by Staff Sergeant John Kaster of the Canadian Police College, and "Analysis of Collected Information and Writing the Investigative Report" presented by Nicole Ladouceur from the Public Service Commission.



In order of frequency, the most common types of complaints about government action this year were:

- Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence
- Adverse impact or discriminatory consequence of a decision or policy on an individual or group
- Harassment by a government official; bias; mismanagement; bad faith
- Unreasonable delay
- Failure of governmental organization to adhere to own processes, guidelines or policies or to apply them in a consistent manner
- Unfair settlement imposed; coercion
- Inadequate or improper investigation was conducted
- Failure to keep a proper record
- Failure to adequately or appropriately communicate with client
- Other
- Insufficient reasons for a decision or no reasons given
- Denial of service
- Failure to provide sufficient or proper notice
- Omission to monitor or manage an agency for which the governmental organization is responsible

We have selected a few cases which represent common issues to present in this section. We hope that reading them will give you a better understanding of the work done by Ombudsman Ontario and how we do it.

Absence of Human Resources Policy

An employee working in a subsidiary company which falls under a provincial Commission complained that he was not allowed to compete for a supervisory job when the organization downsized. He was also concerned that hirings and promotions could be biased if immediate family members were actively involved in the decision-making, as they had been in his workplace.

Although a thorough investigation by Ombudsman staff did not support the employee's complaints about his own treatment, an absence was found of any Commission policy to address workplace nepotism, or the possibility that hiring and reporting practices might be thought biased if relatives made the decisions. Following discussions of the problem with Ombudsman staff, senior management at the Commission agreed to review its appointment and promotion practices, so appropriate policies could be developed.

Ministry Policies Reviewed

A probationary employee of the Ministry of Housing went on sick leave because of workplace stress before the end of her probationary period. Before that, she had made allegations about sexual harassment/reprisal by her supervisor and harassment against a senior manager of the Ministry of Housing. She called Ombudsman Ontario to complain that a review of her allegations was conducted improperly by the Workplace Discrimination/Harassment Prevention Unit (WDHP) of the Management Board Secretariat (MBS).

The client also objected to the process used by her supervisor in the Ministry of Housing to administer her two performance appraisals and objected to having her second performance appraisal and six negative incident reports sent to her home while she was on sick leave. She believed that her two performance appraisals were completed as a form of reprisal for telling her supervisor that she did not want to hear any more of his sexual jokes.

The Ombudsman's investigation focused on the investigative process used by WDHP and the Ministry of Housing's administrative actions in carrying out the client's performance appraisals.

The Ombudsman found some procedural errors and omissions in WDHP's investigation with respect to how witness statements were handled. She therefore recommended that WDHP ensure that the procedure outlining how witness statements would be verified is followed in all investigations.

During the investigation of the sexual harassment concern, the client's supervisor admitted to telling her a joke with sexual connotations. Both the Ombudsman and the WDHP independently concluded as a result of their respective investigations that telling the joke was inappropriate behavior in the workplace. However, since the action was outside the grounds established under WDHP policy, the supervisor could not be disciplined for it.

As a result of the Ombudsman's investigation she recommended: a process be established to identify and refer investigative findings of inappropriate behavior (which fall outside of the current grounds for harassment and discrimination) to the appropriate authority within the Ministry; the Ministry should advise the client and all personnel that it is inappropriate and unacceptable for sexual and/or off-colour jokes to be told in the workplace; and that the Ministry maintain current WDHP training for its staff.

The Ombudsman found that WDHP did not have a policy in place for ministries about how they should advise their staff of impending discrimination/harassment investigations. Since this issue has systemic implications for all government ministries, the Ombudsman recommended that WDHP develop a policy on how ministry staff would be advised of impending discrimination/harassment investigations. The Ombudsman further recommended that the Ministry of Housing should adhere to these guidelines once they are formulated.

The Ombudsman's investigation also revealed that the Ministry of Housing had not followed its guidelines on time frames for conducting probationary staff performance appraisals. She also found that it was not the Ministry's usual practice to forward

performance appraisals and incident reports to staff members' homes. The Ombudsman therefore recommended that the Ministry should adhere to its policies when completing performance appraisals.

Both the Ombudsman and WDHP independently concluded as a result of their respective investigations that the allegation against the senior manager was not based on any of the grounds in the Ontario Government Human Resources Directive.

Both the WDHP (under the Management Board Secretariat) and the Ministry accepted all of the Ombudsman's recommendations. In some instances corrective measures have already been initiated to prevent future complaints of this nature.

Crime Victim Compensation

A victim of a violent crime was dissatisfied with a decision made about her compensation application by the Criminal Injuries Compensation Board. She believed that the Board's award for her pain and suffering was an inadequate reflection of the permanent injuries caused by the assault against her. She also said the Board had failed to compensate her for monetary loss because she could no longer pursue gainful employment and to compensate her children for the trauma they had suffered.

The Ombudsman's office investigated and found that the amount awarded by the Board for pain and suffering was consistent with awards made by the Board in other cases and not unreasonable. The Board had considered all relevant information about this part of her claim, including several medical reports.

However, the Ombudsman concluded that the Board had failed to provide the client with a decision and reasons for not compensating her children. The Board explained that since her children were over 18 years of age at the time the application was made, she should have been advised by staff at the Board that her children must submit their own applications for compensation. The Board offered to send her an apology for not addressing her claim and also agreed to remind staff of its policy and to clarify Board procedures of this nature.

The Ombudsman also determined that the Board was wrong in concluding the client had not been "employed" in a Community Living Skills Program which received its funds from the Ministry of Community and Social Services. This conclusion led to the Board's decision that she was not entitled to compensation for loss of income.

The Board agreed with the Ombudsman's assessment and offered to hold another hearing, before a two-member panel, at which the client would be given an opportunity to

present evidence about this issue. The Board also agreed to develop guidelines to assist it in deciding the types of monetary loss for which compensation can be awarded.

Student Financial Assistance Denied

A client participated in the Ontario Student Assistance Program (OSAP) while attending College. As a result of changes to his personal circumstances, namely a reduction in his financial assistance (family benefits award), he contacted the Student Support Branch of the Ministry of Education and Training to request consideration for additional funding. His request was denied.

The client came to the Ombudsman's office because he believed that the Student Support Branch did not adequately consider his personal circumstances in making its decision. When the Ombudsman notified the Ministry of the client's concerns, it provided a complete list of his direct educational costs and its calculations for his educational allowances.

After reviewing this information, the client was satisfied that the Ministry had appropriately and fairly applied its criteria for assessing whether he had qualified for OSAP, the grounds for considering his appeals, and for calculating his entitlement. The client withdrew his complaint and the Ministry was advised that his concerns had been resolved.

Adoption Disclosure Register

Since approximately 1992, the Ombudsman has received a number of complaints from various individuals regarding the Adoption Disclosure Register of the Ministry of Community and Social Services. Complaints generally centred around the issues regarding delays by the Adoption Disclosure Register and the release of non-identifying and identifying information.

As a result of these complaints, the Ombudsman conducted a formal investigation dealing with three main concerns: delay by the Adoption Disclosure Register in conducting birth relative searches; the issue of the release of non-identifying information versus identifying information and the lack of open adoption records; and mandatory rather than optional counselling.

During the investigation, the Ombudsman determined she could not support concerns about the release of information or the counselling issue because the Ministry was already implementing changes and was considering others, including legislative changes. The Ministry recognized the need for changes and was assisted by the Ombudsman's intervention. The Ombudsman did conclude, however, that the delays in the conducting of birth relative searches were unreasonable and must be eradicated.

The Register was already implementing and considering a number of changes including: minimizing mandatory counselling requirements by using telephone counselling and mailing information packages to adoption parties; broadening the discretion of the Registrar in the release of adoption orders (which would nullify the need for some adoptees to request a birth relative search in the first place); possible use of volunteers in adoption disclosure work; and increasing public awareness of the Register with the hope that more birth relatives and adoptees will register and matches will be made more quickly without the need for an involved search.

In response to the Ombudsman's report, the Register agreed with her conclusion and recommendation. The Registrar advised that it would need to review its programs to improve service to clients and reduce backlogs.

In order to monitor progress, the Ombudsman asked the Ministry to provide her with periodic updates. Since the Ombudsman's report, the Registrar has implemented an improved data base system, streamlined mandatory counselling requirements, and has begun a pilot project with a local adult adoptee organization to run its data base with the Register data base to bring matching parties together in the most efficient manner.

Means Assessment Reviewed

Sometimes it is appropriate to allow a government organization time to devise a resolution which balances a number of considerations.

Legislation passed in 1993 brought significant changes to Ontario's long term health care facilities, including nursing homes and homes for people who are elderly. One of these changes was the introduction of an income test, used to determine whether residents of such facilities may qualify for a reduced accommodation rate. This method of assessing a resident's means, which considers only income, replaced a test which took into consideration the resident's total assets.

The Ombudsman received a complaint from a client whose spouse was a nursing home resident. Her concern was that the income test does not take into account the dependents of long-term care residents. The client explained that, under the rate structure created by the new legislation, the rate charged to her spouse had risen substantially, and she feared that his income would no longer be enough to cover both their expenses. While her spouse's income was not large, it was higher than the amount which would allow him to qualify for a reduced accommodation rate. The client believed the income test was not fair, because it did not take into consideration her spouse's financial responsibility for her.

An investigation by the Ombudsman confirmed that there was no provision in the income testing calculation which would take into account the dependents of long-term care residents. In the absence of such a provision, residents with similar incomes would be treated equally even if their financial responsibilities were quite different.

The Ombudsman approached the Ministry of Health, which was responsible for the new legislation. The Ministry explained that, in implementing reforms to the long-term care system, a priority had been to move away from means testing and to base accommodation fees solely on income in order to achieve a fairer payment structure for residents. However, the Ministry was well aware of the issue of spousal/dependent hardship. The problem was how to devise a fair and non-intrusive method of assessing relative hardship.

The Ministry advised the Ombudsman that its goal was to come up with a solution for the problem of inequity for residents with dependents and provided the Ombudsman with a date by which it intends to do so. The Ombudsman found the Ministry's reply acceptable, but advised that she will reopen her investigation into the client's concern if she is not satisfied with what the Ministry decides to do.

Improved Accountability

A client who is developmentally challenged, was a resident of a group home operated by a non-profit organization. The Ministry of Community and Social Services purchases group home services from the non-profit organization for developmentally challenged persons under an agreement as stipulated in the *Developmental Services Act*.

The client was sexually assaulted by a male employee at the group home in May 1992. The employee continued to work for the non-profit organization until the outcome of his trial in 1994. The parents of the client complained to the Ombudsman that the Ministry of Community and Social Services failed to ensure a secure environment for their daughter.

The Ombudsman investigated the complaint and found that the Ministry did have the authority, by virtue of legislation and the service agreement, to take action to ensure that the non-profit organization provide a safe environment to this client and all its clients. The Ombudsman then recommended the Ministry take immediate action to ensure that an overall secure environment be provided for the client.

As a result of the Ombudsman's investigation and other factors, the Ministry conducted a review of the non-profit organization. The review determined that the Ministry of Community and Social Services requires a better relationship and more accountability from the Board of Directors of these non-profit organizations. Therefore, the Ministry

sent directives to all the Boards about “expectations for transfer payment agencies for the management and prevention of abuse in all adult residential services”. It also ensured the Ombudsman that it is developing and implementing a developmental services accountability project. The purpose of the project is to review, enhance and support accountability in the developmental service system using the Ministry of Community and Social Services’ accountability framework. The end result of this project and other Ministry initiatives will be improved accountability within the system.

Delay in Family Benefits

A client contacted Ombudsman Ontario maintaining that the Ministry of Community and Social Services had unreasonably delayed the processing of his application for Family Benefits. The client has schizophrenia and, although he had in the recent past taken at least one course and searched for a job, was unable to find work or to continue with these efforts. He wanted to be reimbursed for the approximately fourteen months it took for him to become eligible for Family Benefits. Before approaching our office, his lawyer obtained four months of retroactive benefits for him, the maximum allowed under the current regulations. There was some recognition by the Ministry that the delays were not in the man’s control. When the client contacted the Ombudsman’s office, he believed that he should be granted ten more months of retroactive benefits.

Ombudsman Ontario’s investigation revealed that considerable delay had taken place between the time the client completed an application for Family Benefits with the municipal welfare worker, and the time his case was referred to and dealt with by a specialized welfare worker who processed Family Benefits applications. It had also taken a lengthy time for the application to be processed and approved once it reached the Medical Advisory Board. This was partly due to the Board not realizing it had received a report from an external psychiatrist a couple of months before.

The Ombudsman recommended that the Ministry compensate the client for a further eight months of rate differential. It was also suggested the regulation which limited retroactivity to a maximum of four months be reconsidered. The Ministry said it could only accept responsibility for processing the Family Benefits application as of the referral date and not during the time period when it was still with the municipality. However, after further discussion with our office, it agreed to pay two more months of retroactivity to the client, for a total of six months of rate differential. The Ministry also approached the municipal welfare authority which agreed to pay the client another three months of rate differential.

Discussions were held between the Ministry and the welfare authority about the adverse impact on clients when the municipality failed to make timely referrals and

the need to minimize such delays. The Ministry agreed that, as part of its current overall discussion on welfare reform, delivery of Social Assistance and the issue of accountability would also be addressed.

Social Assistance Reinstated

A client was dependent on social assistance to support himself. He was having no success clarifying with his caseworker an overpayment, the stoppage of his diabetes supplement and the denial of a bus pass. He needed his diabetic supplement and his bus pass reinstated and asked the Ombudsman's office to assist. Ombudsman staff contacted the caseworker's supervisor. As a result, the client received a detailed letter about his overpayment, plus a reinstatement of both his diabetes supplement and his bus pass.

Supplement Cheques Stopped

Often the Ombudsman is asked for assistance about federal government matters which are outside her jurisdiction. When possible, however, the Ombudsman will help a person to straighten out a problem when the help seems to be needed.

A client had not been receiving his federal supplement cheques for the previous four months. He had difficulty trying to advise the Federal agency and contacted Ombudsman Ontario for assistance. Ombudsman staff assisted him by telling the federal agency about the problem. He was soon issued a replacement cheque for \$908.56.

Delay in Rehabilitation Process

A Family Benefits recipient contacted our office about delay in the Vocational Rehabilitation Services (VRS) process. She believed that she needed to go through an assessment by VRS, in order to prove that she was permanently unemployable and to establish her eligibility as a person with a disability for the appropriate Family Benefits rates.

After Ombudsman Ontario notified the Ministry, it agreed to pay three months of rate differential between the client's previous Mother's Allowance amount and the new GAINS-D rates. However, it did so in recognition of the delay caused by an external psychologist who took five months to provide his report to the VRS, rather than any admission of wrongdoing or delay on the part of either Family Benefits or VRS.

Eventually, after discussions between Ombudsman staff and the local Family Benefits area manager, the Ministry agreed to pay a further three months rate differential. This

amount was paid after Ombudsman Ontario's investigation revealed a three-month delay period when the VRS reports were neither provided to, nor requested by, either Family Benefits or the Medical Advisory Board (which is responsible for determining medical eligibility for disability benefits.)

Ontario Health Insurance Plan Coverage Denied

A client contacted an Ombudsman Ontario's office to explain that his elderly mother was refused coverage by the Ontario Health Insurance Plan (OHIP). She is a recently landed immigrant who is sponsored by her son. OHIP would not provide coverage because they required proof of residency in the form of a card with her signature and address. The woman did not have the proof since she did not drive or work outside the home. Ombudsman staff discussed the case with a representative of OHIP. In view of the special circumstances, OHIP agreed to accept the sponsorship papers and proof of residency of the son as proof of residency of the mother.

Family Benefits Entitlement Withheld

A client telephoned Ombudsman Ontario when he moved to Toronto after leaving a Group Home in another part of the province. He was receiving Family Benefits for a disability. The Ministry was paying his entitlement to the Group Home which in turn applied a portion towards his rent and meals and gave the rest to him.

The client left the Home in the middle of the month and when he arrived in Toronto, he went to the Family Benefits Office to request the remainder of the month's entitlement. The Office said that a cheque had already been issued to the Group Home on his behalf and he would have to collect the remainder from it. Since the client was homeless at the time, this was impossible. He asked Ombudsman Ontario for any immediate assistance we might provide.

Ombudsman staff contacted the Family Benefits Office to confirm the situation. That Office explained that the Group Home was obliged to reimburse the Ministry for the unused portion before it could be passed on to the recipient. After some discussion, the Family Benefits Office agreed to call the Group Home and confirm the amount of the entitlement that would be sent back to the Ministry.

Once it was assured that the funds were being returned, Family Benefits manually issued a cheque to the client for \$175.10. He was able to pick up the cheque that afternoon and arrange accommodations for the rest of the month until his next entitlement was issued.

Disability Benefits Allowed

A client has a daughter with special needs who applied for disability benefits from the Ministry of Community and Social Services four months before contacting Ombudsman Ontario. She was having no success clarifying with the Ministry the status of her daughter's application. The client explained that she was experiencing financial difficulty and asked the Ombudsman's District Officer to help. After informal inquiries were made to the Ministry, the client's daughter was granted her disability application.

Disability Benefits Delay

In June of 1993, a client residing in northern Ontario, applied for disability benefits from the Ministry of Community and Social Services. Approximately one year later, the Ministry still had not made a decision on her application. Dissatisfied with this delay, the client called one of Ombudsman Ontario's district offices.

Following informal inquiries, the Ministry discovered that it received the application for disability benefits from the municipal welfare office but it had not received the system referral. Within two weeks, the client's application had been processed and was approved.

Unemployment Insurance Deduction Corrected

A client called the Ombudsman's office about the calculation of her Family Benefits. She was receiving unemployment insurance (U.I.) plus a supplement from Family Benefits. When she was successful in obtaining work, she reported her income to the Canada Employment Centre and Family Benefits. Her earnings were deducted from the unemployment insurance, dollar for dollar less the exemption. Family Benefits deducted both her earnings plus the gross (before deductions) amount of her U.I.. She contended that Family Benefits was wrong to deduct the gross amount of the U.I. benefits.

The net effect of all these deductions was a total decrease in the client's income of \$300.00 a month when she was working. The local Community and Social Services office would not reconsider her complaint because their decision had been based on an earlier court ruling in a similar case.

Ombudsman staff made inquiries. It was found that the earlier court ruling was not applicable due to different circumstances. As a result, the client's family benefits were recalculated and she received her arrears benefits.

A memo was sent to all income maintenance offices throughout the province to ensure correct U.I. calculations and earnings deductions are made.

Dispute over Special Equipment Resolved

A child has severe disabilities and requires total care and supervision. His parents care for him in their home. They receive the Children's Handicap Benefit (CHB) and because of the extraordinary expenses connected with caring for their son, they applied for and were granted an Order-in-Council (OIC). The OIC allows the annual review of extraordinary expenses and gives the area manager of the Ministry of Community and Social Services office authority to approve increases.

The parents called Ombudsman Ontario because of a dispute between them and the Ministry over funding for special learning equipment. The child's mother asked for special sound books and batteries for touch type toys. Originally, the request for special learning equipment was denied because it was supposedly available in the public library and the local toy-lending library.

Ombudsman staff determined that the sound books were not available on a loan basis from the public library or the toy-lending library. The Ministry of Community and Social Services acknowledged its mistake and allowed an amount of \$80.00 towards the purchase of the sound books and \$60.00 for the purchase of batteries for touch type toys. However, the Ministry also believed that the parents already had excess funds in the money allocated to them and therefore no further payment was due. The Ombudsman disagreed and recommended that the Ministry provide \$140.00 for the purchase of sound books and batteries. After eight months of discussion, Ministry officials finally agreed and made the payment.

Welfare Benefits Paid Retroactively

A client came to an Ombudsman Ontario office to complain about a change in her welfare benefits. She was advised in July that these benefits were to be reduced by \$487.00 per month. She appealed this action to the Social Assistance Review Board (SARB) and requested interim assistance pending an appeal hearing and decision, but did not receive any response.

No benefits were paid to her in August and it was only when the client contacted the general welfare worker that she learned her benefits were being terminated entirely. Assuming that her appeal with SARB was proceeding, she took no further action until late September. She then sought the assistance of a community legal clinic and filed another appeal application.

At this point, it was discovered that SARB apparently had never received (or at least had no record of) the original appeal form and application for interim assistance. It

went ahead and processed the second application and in October, ordered the municipality (which administers welfare benefits) to pay the client interim assistance effective from the date of receipt of the second appeal application.

After a number of inquiries by Ombudsman staff, SARB found some evidence of the first appeal application made in July and finally agreed to backdate the client's application. As a result, they found her eligible for interim assistance for the period from her first appeal application. SARB ordered the municipality to pay her that amount or roughly \$5,000.00. The client was extremely relieved because she had been borrowing money during that time in order to care for her children and herself.

Miscalculation of Support Arrears

In November, a client who was referred to the office by his Member of Provincial Parliament contacted Ombudsman Ontario because of his difficulties with the Family Support Plan (FSP). He submitted a Voluntary Arrears Payment Schedule (VAPS) proposal to FSP in June, 1994. By late October, FSP had not responded to his request and continued to garnish his wages at 50 percent, placing him in a position of extreme hardship.

The client also disputed FSP's arrears calculation because he said he had paid the support recipient directly. Even though the recipient wrote FSP to confirm his payments, it failed to adjust the account.

When the Ombudsman's staff contacted FSP to confirm its receipt of the VAPS, it acknowledged its error and said the VAPS submission was currently under review. FSP called the recipient confirming the direct payments and adjusted the arrears accordingly.

However, in December, the client called again. FSP had refused his original VAPS and sent him a counter proposal. He accepted the counter proposal and faxed in his information. When he contacted FSP to see what the status was, he was told they had not received the information and once the information was in, it would take 30 days to take any action. The client was on the verge of eviction if his next pay was garnished at 50 percent. Ombudsman staff contacted FSP once again. FSP agreed to implement the client's VAPS immediately, call his employer to confirm the details of the VAPS and revoke the 50 percent garnishment notice.

Delay in Enforcing Collection of Support Payments

A client with three children had not received any support payments for six months, even though she had provided the Family Support Plan (FSP) with information about her ex-spouse's employment. Her attempts to contact the FSP for an explanation had not been successful so she telephoned Ombudsman Ontario to complain that the FSP had not taken enforcement action on her behalf.

Ombudsman staff made an inquiry at FSP about the status of her case. As a result, her file was reviewed by the FSP's enforcement staff and an enforcement representative telephoned her to apologize for the delay in taking action on her file. She was also informed that the FSP would take immediate action to enforce the collection of support payments from her ex-spouse.

Ministry Repayment Confirmed

A client contacted Ombudsman Ontario about an overpayment of Family Benefits which the Ministry of Community and Social Services was attempting to recover from her. The client said she was being asked to repay a substantial sum of money to the Ministry which she contended she had already paid. The confusion appeared when the Ministry attempted to collect child support arrears through the Family Support Plan to cover its payment of Family Benefits to the client. The Ministry contended that the client did not disclose that she received direct child support payments while still collecting Family Benefits, thereby creating an overpayment.

The client was adamant that she had reimbursed the Ministry for the amount of the overpayment, and could verify some of this repayment with receipts in the amount of \$1,790.00. However, when she attempted to resolve the issue through phone calls and a visit to the Ministry's regional office, her calls were not returned and the general welfare worker refused to meet with her. She had also arranged for her ex-spouse who paid the support to confirm that the payments were made.

When the client provided Ombudsman staff with copies of the receipts, the Ministry was contacted. As a result, the Ministry initiated an investigation and later confirmed that the client was correct; she had remitted the amount she received in support payments to the Ministry.

Ministry Unfair Tender Procedure

A client's company was one of five involved in a tender competition for a contract with the former Ministry of Government Services. His company was not successful and he called the Ombudsman's office to complain that his company was not treated fairly during the competition process. He also contended that the Ministry's staff had not advised him of an administrative appeal procedure.

The Ombudsman reviewed Management Board Directives on the tender process and a manager's guide which had been designed to assist government project managers with the practices and procedures involved when procuring consulting services. The Management Board Directive relating to consulting services set out the principles and mandatory requirements. One of the requirements was that a bidder debriefing be provided upon the request of a bidder.

In this case, a debriefing meeting had been held with the project manager and a senior executive of the Ministry. Therefore, in the Ombudsman's opinion, the mandatory requirement of a bidder debriefing had been fulfilled. The Ombudsman also decided that since no appeal procedure was available, Ministry staff had not denied the client a right of appeal.

However, further investigation about the competition process confirmed the client's statement that his company had not received notice of changes to the interview presentation format. Changes were sent by facsimile transmission to each of the competitors one week before their respective interviews and the Ministry received an acknowledgment from each that they had received notice of the changes. It did not receive an acknowledgment from the client's company. Examination of the facsimile machine log at the client's company revealed that it had not received a transmission from the Ministry.

It appeared to the Ombudsman that there was an administrative flaw in the competition process concerning the provision of notice. The Ombudsman had to consider if this flaw was significant enough to have affected the outcome of the competition. The Ombudsman reviewed the evaluation criteria used by the Ministry's selection panel, and her staff interviewed members of the selection panel who expressed confidence that, based on all of the criteria, the final ranking of the competitors was an accurate reflection of the assessment by the panel. Competitors were scored on their written submissions and cost estimates, as well as their answers to the questions asked during the interview. Since no marks had been awarded or deducted for interview format or presentation skills, the Ombudsman found the outcome of the competition was not affected by the fact that the client's company did not receive notification of changes to the interview format.

The Ombudsman believed that the Ministry of Government Services should have confirmed and documented the fact that it had sent notification of the change to the interview format to each company and verified that the notices had been received. If the Ministry had requested acknowledgment of the receipt of the facsimile transmissions, or had it verified with the proponent companies at the beginning of the interview that they had received the notice of change, any perception of unfairness could have been avoided and the integrity of the competition maintained.

The Ombudsman recommended that the Ministry should keep confirmation on the competition file whenever it sends notices of changes to the process by facsimile transmission. The Deputy Minister of the Management Board Secretariat (which had assumed the responsibilities of the former Ministry of Government Services) accepted the Ombudsman's conclusions and notified the Ombudsman of his intention to implement her recommendations.

Unfair Tender Process

A client who owns his own appraisal business asked the Ombudsman's office to investigate the Ministry of Transportation's method of awarding four contracts. He felt that the tender process had been unfair.

After conducting an investigation, the Ombudsman discovered that in one tender, the Ministry had ignored its own closing date; it had solicited another bid after the closing tender date; and it had awarded the tender to a consultant who had not participated in the tender process.

In addition, the Ministry had failed to comply with its own directives when it informally awarded two other contracts that should have gone to tender.

When the Ombudsman shared her concerns with the Ministry of Transportation, the Ministry volunteered to apologize to the client and compensate him for the reasonable expenses which he incurred to participate in the tender which the Ministry had ignored. The Ministry also agreed to provide additional training to its staff. The Ombudsman was satisfied with the Ministry's cooperative attitude, and the client was satisfied with the outcome.

Ministry Procedures Reviewed

In October 1992, the Ombudsman advised the Deputy Minister of Labour of her intention to investigate complaints about delay and insufficient communication with clients in the work of the Employment Standards Branch. The decision to investigate was based on the large number of similar complaints coming in to Ombudsman Ontario about the Employment Standards Branch.

During the investigation, interviews were conducted with 79 Ministry staff in a dozen locations throughout the province. A variety of internal documents and a range of individual claim files were reviewed at various locations.

As a result of looking into the original two complaints, a third concern was also identified: the quality of claims investigation seemed to vary considerably throughout the province and to be inadequate in some cases. Practices followed by the Ministry in receiving and acting on claims were not consistent.

The Ministry acknowledged an ongoing delay problem in all of its claims processing and started to develop several creative strategies, particularly at the 'intake' stage, in order to reduce delays overall.

The Deputy Minister agreed that recent delays in handling claims had been unreasonable, and that in many cases clients were not kept adequately informed about the status of their claims, but took issue with the Ombudsman's conclusions about the quality of the Ministry's investigative work, particularly her finding that the organization did not focus on the quality of its investigations to the same degree as on claimant satisfaction. The Deputy Minister's view was that his staff must frequently make the "judgment call" that a full and detailed investigation may not be necessary. The Ombudsman was concerned that a legitimate focus on timeliness should not outweigh adherence to governing legislation when claims are investigated and resolved.

By March 1995, the Ministry committed itself to: clarify the goals of the Employment Standards Program claims investigations; use resources to provide high quality service; develop and implement a plan to improve local management practices throughout the province for supervision of claims investigation and file processing; make revisions to a "Procedures Manual" a priority; complete work on its legal "Interpretation Manual"; and develop and implement a computerized "Case Management System" which would permit claimants to determine the status of their claims.

The Ministry also agreed to develop training programs for both managers and line staff in

group dynamics and teamwork, as well as in the requirements of claims investigation, file processing and collections. Steps would also be taken to set up an effective forum for staff to make suggestions on how to improve the organization's work. The Deputy Minister also agreed to develop appropriate quality assurance measures.

The Ombudsman advised the Deputy of her intention to follow up on the Ministry's progress in six months.

Ministry Actions Appropriate

Several individuals approached the Ombudsman alleging that the Ministry of Natural Resources (MNR) had failed to properly monitor the construction of a small private hydro-electric project on Crown land in Northern Ontario. As a result, they believed that the structure was unsafe and that the fishery in the river had been adversely affected. They also alleged that the Ministry of Environment and Energy (MOEE) had failed to respond to complaints about environmental infractions during construction of the project.

Upon investigation, Ombudsman staff found that MNR staff had paid numerous visits to the site during construction and had taken action whenever concerns arose. The decisions made about the fishery and water quality were based on information received from MNR biologists and from environmental experts in both the federal and provincial governments. The Ministry had also established a Monitoring Committee comprised of local citizens.

After considering these facts, the Ombudsman concluded that MNR had fulfilled its responsibility for monitoring a private construction project on Crown land in order to ensure the protection of local resources. She commented that she was impressed by the amount of time Ministry employees had spent in monitoring this project and by the thoroughness of their work. The Ombudsman also found that MOEE staff had acted in accordance with their mandate in dealing with reported infractions.

Compensation Provided

After a client sold his farm in 1982 to the Ministry of Transportation (MTO), a dispute lasted over the next twelve years about the basis for and amount of additional compensation he should receive for the mortgage interest rate differential.

When the Ombudsman looked into the matter, it was discovered that during the purchase negotiations, MTO had changed its policy and withdrawn its offer on a hypothetical remortgage. Eventually the client was informed that, instead of using the mortgage on an

existing cottage, he would have to buy a replacement property. When he eventually did so, his claim for compensation and legal fees was denied because it was submitted too late.

Over the years, the client consulted several lawyers but did not feel he could afford court action. When he eventually filed a Notice of Arbitration with the Ontario Municipal Board (OMB), MTO disputed the OMB's jurisdiction to rule on what it regarded as a contract, not an expropriation case.

However, in order to limit its costs, MTO offered the client \$5,000.00 "without prejudice" in 1990. He refused this offer and the OMB adjourned its hearings since he had no lawyer.

The Ombudsman's investigation indicated that MTO had established no adequate written policy for its property agents and had refused to clarify what it would regard as a valid claim for the client's solicitor. The Ministry of Transportation was receptive to a proposal to meet with Ombudsman staff to share the information obtained. After two meetings with MTO officials, the Ministry offered, and the client accepted, \$31,250.00. This amount covered mortgage rate differential compensation, legal fees on the purchase of the replacement farm, and other legal fees and out-of-pocket expenses incurred in his attempts to reach a resolution with MTO before approaching the Ombudsman.

Hydro Access

A client complained that Ontario Hydro had cut down his trees without permission. Ontario Hydro believed that its staff had verbal authority to take this action. Ontario Hydro offered to replant the trees and asked the landowner for a limited easement to his property to permit maintenance of its right-of-way. When Ombudsman staff talked to the client, it was discovered that he was not satisfied with the replanting offer because what he really needed was replacement of the old fence which the trees had supported. When Ontario Hydro was made aware of his need for a barrier to prevent snowmobile access to his property, it agreed to provide him with a cheque for \$4,000.00 for construction of a new fence.

Replacement Trees Planted

A client contended that the Ministry of Transportation sent machinery and operators to remove a tree line which fronted his property. The trees provided natural protection from wind and snow and afforded the family additional privacy and increased use and enjoyment of the land.

Although the client alleged that he had made inquiries with the Ministry and asked it to postpone its actions pending further discussion, Ministry officials took the position that

they were advised by the Local Roads Board to clear the road to facilitate snow removal.

The Ombudsman advised the Ministry of Transportation that she would conduct an investigation of this complaint. The client wanted the large trees that had been removed to be replaced with trees of the same size. After some discussion, the Ministry agreed to replace the removed trees and the client could provide some large trees from his property for transplanting. The Ministry also agreed to plant a row of small trees along the balance of the area that was cut over.

Inmates' Dorm Conditions Improved

As a cost saving measure, the female inmates at an eastern detention centre were moved from two dorms into a single dorm. Concerns were raised about the privacy provided to the female inmates, as well as the general conditions of the dorm. The dorm was significantly smaller and renovations had yet to be completed to accommodate a female population as opposed to the usual intermittent male population housed in this unit.

Ombudsman Ontario began receiving complaints of overcrowding conditions from the female inmates. There were clear indicators of tension in the female population as seen by an increase in the number of complaints received about various issues such as inmate misconducts, access to recreation (the weight room), yard and privacy complaints about an observation window which allowed officers to look directly into the shower area of the dorm. The overcrowding conditions as well as other concerns were noted by the Ombudsman during a tour of the facility.

In cooperation with the Superintendent of the institution and the Eastern Regional Office of the Ministry, Ombudsman staff held discussions and meetings in an effort to determine appropriate alternative accommodation.

After considering various options, it was decided that the female unit would be moved to one of the large dorms in the minimum area of the institution. The dorm was renovated (cleaned, repaired, painted, urinals removed and toilets installed, privacy blinds installed) and the new unit was formally opened early in 1995.

Equitable Treatment of Inmate Ensured

An aboriginal person who was an inmate complained that when he was transferred from a federal institution to a provincial jail his Medicine Bag was taken from him and degraded in the process. The religious significance of the Medicine Bag was not initially recognized by the staff of the provincial institution, nor was the de-sanctification of the

Bag understood. The inmate's concerns, as well as the process by which the Medicine Bag could be restored, were discussed with the institution's senior management. As a result of Ombudsman staff inquiries, arrangements were made by the institution to have a Native Elder re-sanctify the Bag and ensure that the man's religious rites and rituals were honoured.

Inmate Mail Complaint

An inmate was in a detention centre when she called Ombudsman Ontario to complain that the area she was housed in did not receive letters. She was missing two letters from relatives. When she asked the correctional officers about it, she was told they had distributed all the letters received.

Ombudsman staff spoke to detention centre staff who said that the institution had a record of receiving the letters and thought the letters were distributed. However, the institution had no way to verify that the inmates received the letters. After discussion, it was agreed that the institution would set up a system where inmates will sign for receipt of letters.

Numerous Correctional Concerns Addressed

A complaint was made by a group of inmates in the female unit at a correctional institution. As a result, Ombudsman Ontario staff visited the institution to interview female inmates and staff. Complaints about living conditions included: showering was impossible because the water temperature could not be regulated (it was either too hot or too cold); shower curtains needed replacing; there was no proper sized clothing for pregnant and "plus" sizes; the canteen list had no hair rinse, body lotion or snacks on it; a pregnant inmate was refused cell time to rest as directed by medical personnel; underwear for the inmates was in poor condition and an insufficient number of changes was provided; and the telephone needed to be repaired. Another complaint was that daily cell time was not provided and inmates had to remain in a common area from approximately 7:00 a.m. until 9:00 p.m..

As a result of Ombudsman staff inquiries, all of these problems were addressed and corrected. In addition, the institution also agreed to review the possibility of introducing cell time during the day for all inmates.

Inmate's Disability Accommodated

An inmate who is deaf contacted the Ombudsman's office about difficulties he was experiencing in a provincial jail. Since he required the use of a teletype (TTY) phone

located in a private office, he was only permitted to make collect calls and use the phone twice a week. The jail was also charging him for making the calls. He thought this was unreasonable.

The inmate communicates through American Sign Language (ASL) and complained that he was having difficulty communicating with staff at the facility. He believed he was being denied certain privileges due to his disability.

When staff from the Ombudsman's office contacted jail staff, they confirmed they were having difficulty accommodating the inmate's needs. The jail had only one staff member fluent in ASL. Unfortunately, this person was on holidays during the time the inmate was experiencing problems.

The jail staff agreed that he could now have unlimited telephone access to Ombudsman Ontario, his solicitor and his Member of Provincial Parliament, and agreed to negotiate a billing method for his personal calls. Ombudsman staff was also told that jail staff would take further steps to accommodate the inmate's disability.

Inmate's Religious Request Accommodated

A client sentenced to serve 30 days in a correctional institution called Ombudsman Ontario to complain. He was admitted with three books used by members of the Wiccan faith and when he first asked, the institution denied him access to the material on the grounds that inmates are not allowed personal possessions. Since he was serving a short sentence, an effort was made to resolve this case quickly to provide a tangible benefit for the inmate.

Ombudsman staff asked the institution to review its position particularly with respect to its duty to comply with the reasonable accommodation standard of the Ontario Human Rights Code.

Correctional institution staff expressed concerns about not giving him the books for "security" reasons but this could not be supported with any evidence of a security risk. After considering all the relevant information, the requested material was given to the inmate.

Inmate's Property Missing

An inmate called Ombudsman Ontario and asked that it investigate his claim that he had cash and property worth \$350.00 lost or stolen during his transfer from the custody of regional police to the admission and discharge staff at a detention centre.

The police investigated his claim and issued a report in which staff acknowledged that their procedures could have contributed to the loss. They offered to pay half his claim, or \$175.00. The police also changed several of their practices with respect to the handling of cash and property in an effort to eliminate the problems identified in this case.

Staff at the detention centre maintained that they did not contribute to the loss and would not accept any financial responsibility. Several efforts were made to resolve this matter on the basis of the police investigation, the facts of which were confirmed by the observations and inquiries of Ombudsman staff.

The Ombudsman sent a notice of intention to investigate this case to the regional director of detention centres. He offered to compensate the inmate even though he maintained the position that the centre was not responsible for the loss.

In order to resolve this complaint Ombudsman staff worked with organizations that were within its jurisdiction and were non-jurisdictional at the same time.

Inmate Funds Secured

An inmate whose financial affairs are administered by the Office of the Public Trustee contacted the Ombudsman's district office. As a result of a transfer from one correctional facility to another, he had not received the \$100.00 normally sent to him by the Public Trustee for his canteen fund. Although the inmate was advised by the receiving institution that the money had been sent to him, he maintained he had not received it.

Ombudsman staff contacted the first correctional facility and learned that, in fact, the inmate had not received the \$100.00 before his transfer. Ombudsman staff ensured the institution would send the money and later called the inmate to confirm that this had been done.

Inmate Locates Missing Property

An inmate in a provincial jail called Ombudsman staff because he was having a problem locating his dentures. He had undergone some dental work at another correctional facility and his dentures were left at that facility for repair. He was then transferred to a third correctional facility and when he returned for his next dental appointment his dentures were not there.

Ombudsman staff contacted employees at the facility where the dentures had been repaired and was told that the dentures were sent back to the first facility after the

inmate failed to keep his dental appointment. Employees at the first facility informed the Ombudsman staff that the dentures had already been sent ahead to the third institution the inmate was transferred to. The third institution said the dentures did not arrive.

Ombudsman staff contacted the original detention facility again, which launched its own investigation of the situation. The dentures had been forgotten by bailiffs transporting inmates to the receiving institution; they were located and sent on the next transfer bus to the inmate.

Inmate Request Facilitated

An inmate contacted Ombudsman staff from a provincial detention centre because she needed her street clothes for a court appearance. On the last two occasions the inmate had to attend court, staff at the institution informed her they were too busy to provide her with her street clothes. This was an important issue to the inmate because she was concerned that an appearance in her institutional clothing might prejudice the court's assessment of her case. Although there is no written policy, the practice is to provide street clothing to inmates for court appearances.

When Ombudsman staff contacted detention centre staff, the Deputy Superintendent agreed to ensure that the inmate would have her street clothing for future court appearances.

Widow's Pension Secure

A client contacted the Ombudsman's district office to explain that she had been told by the Worker's Compensation Board (WCB) that she would lose her widow's pension when she remarried. (Her spouse had died 14 years ago as a result of a work injury.) She inquired over one year ago about losing her pension if she remarried and was told that she would not but that she should contact the WCB one month prior to the wedding. The WCB would give her a letter confirming that she would continue to be eligible for her pension.

When she called the WCB and asked to have the confirmation sent she was told that she would receive a lump sum equivalent to two years of benefits but would no longer receive her pension. She was upset because she and her fiancé were not in good health, were both living on pensions and needed her widow's pension to make ends meet. They considered cancelling the wedding plans.

The Ombudsman's District Officer contacted the WCB and was told that the client

was given the wrong information, that the *Workers' Compensation Board Act* had been changed in 1985 and that widows' pensions were no longer terminated upon remarriage.

Benefits Reduced Without Reason

A client contacted the Ombudsman's district office because his Workers' Compensation Board (WCB) benefits had been reduced for a period of seven months and he was not given a reason. He was suffering significant financial hardship as a result of this reduction in benefits. The Ombudsman's District Officer contacted the WCB claims adjudicator who reviewed the file. The review resulted in discovering that the client was eligible for full benefits and he subsequently received \$5,000.00 in retroactive benefits.

Retroactive Benefits Received

A client called our office about a complaint against the Workers' Compensation Board. He applied for benefits in October, 1993 and said his claim was accepted by the Board but he had not received any benefits in over a year. He explained that he had contacted the adjudicator every three months to verify the status of his file and had also visited the office three times. Every time he contacted his adjudicator he was informed that benefits would be forthcoming. He was concerned about the delay because his Unemployment Insurance claim had expired and the holiday season was near.

The Ombudsman's Office contacted the Workers' Compensation Board and was advised that the file had been mistakenly de-activated. The claim was reviewed by the adjudicator and the client received retroactive benefits in the amount of \$17,000.00 within a few days.

Discriminatory Comments Removed from File

During an investigation into a complaint about the handling of an appeal by the Workers' Compensation Appeals Tribunal, the Ombudsman discovered that a Workers' Compensation Board caseworker had recorded, years earlier, several judgmental and discriminatory comments about the client's personal habits, and the trade he had followed.

Although not sufficient to affect the outcome of the later appeal, these comments had angered and hurt the client when he read the file years later.

The Ombudsman expressed her concern about the caseworker's behaviour to the Compensation Board Chair. As a result, the Board purged the offending remarks from the client's record, and reaffirmed its commitment to staff training, in the interests of administering "justice with humanity".

Decision Reconsidered by Tribunal

A client contacted Ombudsman Ontario for assistance. He claimed that his psychological disability was a direct result of his compensable accident. A Workers' Compensation Appeal Tribunal (WCAT) majority decision found that a causal relationship between his compensable accident and his diagnosed psychiatric disability was not demonstrated. The decision was made on the basis that a personal tragedy experienced by the client three years after his accident was an intervening event which broke the chain of causation between the compensable accident and the psychological disability.

The Ombudsman concluded that the majority Tribunal decision was unreasonable and recommended that WCAT reconsider its decision. The Ombudsman found that the question of whether or not the client's psychological disability was related to his compensable accident was a medical issue and the available medical information did not support the decision made by the Tribunal. Both of the psychiatrists involved in the case believed there was a causal relationship between the compensable accident and the psychological disability.

As a result of the Ombudsman's investigation, the WCAT obtained further information and subsequently decided that the client's case should be reconsidered.

Birth Certificate Issued

A client was born in 1923 at home in a small community in Northern Ontario. At the time, her parents did not officially register her birth. When she applied to the Office of the Registrar General for her birth certificate in 1993, she was told a certificate could not be issued because her birth was not registered.

Unfortunately, there was very little evidence available to establish the client's date and place of birth. She submitted a copy of the 1924 handwritten parish record of her baptism; however, the spelling of her father's last name was different from that which she and her family had always used. She tried for about a year but was unable to obtain any other documentary evidence, such as school records, which could clarify the situation and satisfy the Registrar General's requirements.

Although the Office of the Registrar General could have provided her with a certificate in the name as it was spelled in the parish record, she did not want this. Frustrated with the exchange of forms and lack of progress in her attempts to deal with the Office of the Registrar General, she finally called Ombudsman Ontario for assistance.

Ombudsman staff discovered when talking to the client that she had four siblings all of whom were in possession of birth certificates with the correct spelling of the family name. The Office of the Registrar General was told about this new information and of the client's dissatisfaction with the process.

The Deputy Registrar General reviewed her file as well as the registration records of her siblings. He found more complete family information in her siblings' records and, based on the evidence from all these sources, he concluded that her birth could be registered. The client's birth certificate was subsequently issued with the correct spelling of her family name.

Drivers' Licence Application Costs

Ombudsman Ontario reaches out to the smaller communities by setting up temporary "offices" where people from those communities can personally see Ombudsman staff. A client in a small northern Ontario community visited one of these temporary offices to complain. He had lost his drivers' licence several years earlier due to impaired driving charges, and was now in the process of re-applying. The client supplied two doctors' reports, but the Ministry of Transportation requested a more detailed report from a psychiatrist, psychologist, or a family doctor of long standing.

The client was new in town and did not have a family doctor of long standing. There are no psychiatrists or psychologists in the town. He inquired about getting the report done in two other cities, but this would have cost him travel and accommodations, plus the lowest price for preparing the report that he was quoted was \$250.00. While the client contended that the Ministry was being unreasonable in requesting the third medical report, he was not adverse to taking a third examination. Cost was a factor in keeping him from doing so.

The two reports submitted by the local physician for the client were clearly inadequate for the Ministry of Transportation to assess the likelihood for his drinking and driving again. The Ministry requested that the third report be conducted by a psychiatrist or psychologist. Its prime concern was to receive a detailed report by a professional with addictions counselling, training and experience.

The Ombudsman's District Officer made inquiries, and was able to verify that the local community counselling service could provide the necessary report at no cost to the client. Others in the community who may require similar services will also benefit from this new information.

Drivers' Licence Application Misplaced

A client contacted our office about the Ministry of Transportation. He had tried to renew his A-B class drivers' licence which he needed for a part-time job. He said that he had provided the appropriate documentation and completed the written test within the Ministry's required timeframes. However, when he contacted the Ministry for his licence he was informed that the documentation had been misplaced. He went to the Ministry office, provided a second copy and was advised that he had missed the deadline and would have to pay a fee to renew his licence. As a result of the Ombudsman staff inquiry, the Ministry issued a temporary licence and advised that a permanent licence would be sent to the man, allowing him to start his part-time job.

Licence Reinstated

A client contacted the Ombudsman's office because he was distressed and angry with the Ministry of Transportation. The client's licence had been suspended for medical reasons. He and his doctor submitted medical reports four times and the Ministry had lost or misplaced the information. The Ministry got the reports when they were sent the fifth time but said the information was unspecified and would have to go for Medical Review which would not occur for some time.

The client was planning to leave for Florida in two days and needed a decision in order to cancel his out of country medical insurance and make other travel arrangements. Ombudsman staff called the Ministry and had the reports faxed directly to a contact person in the Ministry office. That contact took the reports to the Medical Advisor for consideration. The Ministry agreed to reinstate the client's licence and said he could disregard any suspension notice received in the mail.

Northern Health Travel Grant Delay

A client contacted Ombudsman Ontario's district office when he was advised by the Northern Health Travel Grant Program that no record of his application could be found. The client accompanied his child to see a specialist in Southern Ontario in June 1994. The application for a travel grant was mailed from southern Ontario after visiting the doctor there. The client contacted the Northern Health Travel Grant by telephone on a number of occasions after submitting his application and he was told that his grant would be processed shortly. When he was advised in November that there was no record of his application, he called Ombudsman Ontario.

Ombudsman staff contacted the Northern Health Travel Grant and made inquiries. Since the original application could not be located, new copies were faxed to the Northern

Health Travel Grant office. Confirmation was received shortly afterwards that the client's application had been processed and he could expect a cheque in the mail.

Travel Funds Advanced

A client received a notice of a Criminal Injuries Compensation Board hearing, which was to be held about 500 kilometers from his home community. When he asked if the hearing could be held in his home community, the Board said it could accommodate his request but that it would delay the hearing.

He then contacted the Ombudsman's office to see if anything could be done. While interviewing him, Ombudsman staff determined that he would be able to travel to the city for the hearing if he had the money to do so. The client was on social assistance and while the Board would compensate him for his travel expenses, this would not happen until approximately two months after the hearing. The Board was sympathetic to his situation but had no authority to advance the money to him for travel expenses.

Ombudsman staff knew that local municipal welfare offices provide travel advances for Northern Health Travel Grants to eligible recipients. After making a few informal inquiries to the local municipal welfare office and to the Criminal Injuries Compensation Board, an agreement was reached whereby the local welfare office advanced the client enough money to attend the hearing. The Board later reimbursed the welfare office.

Northern Health Travel Grant Denied

A client applied to the Ministry of Health for a Northern Health Travel Grant (NHTG) for visits to a specialist in May and June of 1993. His applications were rejected because he was not treated by a specialist during his visits. He contacted our district office to explain that he did have appointments for those days with a specialist, but the specialist was not present when he arrived (1,000 kilometers from home). He was instead given the treatments by a general physician who worked under the direction of the specialist. Ombudsman staff advised him that he could appeal to the Director of the NHTG in his area. He did this by letter on December 10, 1993.

The client contacted the Ombudsman's office again on February 18, 1994, to say that he still had not received a response from the Director. When Ombudsman staff inquired, it was discovered that his letter had gone astray. After a full discussion of the situation, the Ministry agreed to approve the grants, provided all other requirements for them were met.

A detailed examination of the client's applications revealed that no corresponding

doctor's claim had been submitted for the two visits being claimed. The doctor's office advised the Ministry of Health that the Worker's Compensation Board (WCB) had paid the doctor's bill. The Ministry now proposed to reject the travel claims based on the WCB claim.

The man told Ombudsman staff that the doctor's bill was not paid by a WCB claim. The WCB confirmed this. The Ministry then contacted the doctor's office again. The office insisted that WCB had paid the bill. When the Ministry asked the doctor's office for a copy of its accounting records, an error in billing was discovered. The Ministry then immediately issued cheques for the two travel grants to the client.

School Board Referral

A client contacted Ombudsman staff because the local School Board would not allow her son to register at the high school he wanted to attend. She felt this was unfair and wanted her son back in school. Even though complaints about School Boards are not in the Ombudsman's jurisdiction, Ombudsman staff offered to contact the Superintendent of Secondary Schools.

The Superintendent offered to place the client's son at an alternative educational facility but explained that due to the past disciplinary issues, he would not be able to return to the high school he had previously attended. The client was thankful there was a place available for her son and felt that the alternative high school might be more conducive to meet her son's behavioural needs.

Language of Service

Ombudsman's staff received a telephone call from a client who spoke no English, although she was able to identify the language in which she spoke. Ombudsman Ontario offers services in any language requested. The staff person called a community organization which serves that client's own community and explained the situation.

The intake worker for the community organization contacted the client, and determined that her problem was about her Canada Pension eligibility. Ombudsman staff was then able to provide the intake worker with referrals to a local legal clinic and the client's federal Member of Parliament. In addition to agreeing to pass this information on to the client, the intake worker offered to meet with her to assist with her problem.

The Ombudsman

spoke and/or presented papers at these venues during 1994-95:

Elim Lodge No. 29
14th Annual Banquet
& Ball
Toronto, Ontario
April 23, 1994

**Six Nations of the Grand
River Territory**
Community Presentation
Brantford, Ontario
April 27, 1994

**Ontario Multicultural
Association**
Awards Banquet
Toronto, Ontario
May 14, 1994

Friends for Seniors
Smiths Falls, Ontario
May 24, 1994

Kingston Public Library
Kingston, Ontario
May 24, 1994

YM-YWCA
Presentation to Community
Service Providers
Ottawa, Ontario
May 25, 1994

Legislative Library
Toronto, Ontario
May 30, 1994

**National Ombudsman
Conference**
Victoria, British Columbia
June 16-18, 1994

**Heart and Stroke
Foundation, Norfolk
Chapter**
Annual General Meeting
Simcoe, Ontario
September 14, 1994

**International Ombudsman
Institute**
Conference on the
Ombudsman Concept
Taipei, Taiwan
September 19-24, 1994

Native Canadian Centre
Toronto, Ontario
October 13, 1994

**International Ombudsman
Institute**
Board of Directors Meeting
Buenos Aires,
October 17-21, 1994

**Ontario Native Welfare
Administrator's Association
(ONWAA)**
Toronto, Ontario
October 25, 1994

**The Federation of Women
Teachers' Associations of
Ontario (FWTAO) & The
Women in Educational
Administration Ontario
(WEAO)**
"In Women's Voices"
Conference
Toronto, Ontario
November 19, 1994

**Victoria College, University
of Toronto**
Toronto, Ontario
November 21, 1994

Algoma University
Sault Ste. Marie, Ontario
January 19, 1995

Unity and Diversity Group
Sault Ste. Marie, Ontario
January 19, 1995

**Canadian Women's
Foundation and LMC
International Inc.**
Toronto, Ontario
January 26, 1995

**Canadian Bar Association
Joint Action Committee on
Gender Equality**
Toronto, Ontario
January 27, 1995

**University Women's Club of
Toronto**
Toronto, Ontario
February 9, 1995

**Thunder Bay Correctional
Centre**
Thunder Bay, Ontario
February 22, 1995

Accueil Francophone
Thunder Bay, Ontario
February 22, 1995

**Open House, Thunder Bay
District Office**
Thunder Bay, Ontario
February 22, 1995

Spirit of the People
Toronto, Ontario
February 27, 1995

**Human Rights and Race
Relations Centre**
Toronto, Ontario
March 21, 1995

**City of Scarborough
Community & Race
Relations**
Scarborough, Ontario
March 21, 1995

**Youth Conference on
Human Rights**
Ottawa, Ontario
March 31, 1995

Statistical Information Summary

- During the year the Ombudsman dealt with 31,441 inquiries and complaints (36,144 in 1993-94)
- Complaints increased 16% to 10,742 (9,273 in 1993-94) while inquiries decreased (23)% to 20,699 (26,871 in 1993-94)
- In 19,855 or 63% of the cases (25,536 or 71% in 1993-94) no further action was required or possible beyond giving of a referral or making an inquiry on behalf of the client.
- In 2,079 or 7% of the cases (1,595 or 4% in 1993-94) even though the client was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution to the matter.
- There were 1,740 or 5% cases discontinued (1,809 or 5% in 1993-94). Of these, 1,262 were discontinued by the Ombudsman because an adequate alternative remedy was available to the client, or no further involvement was required.

Statistical highlights

fiscal comparison

	1994-95	93-94	92-93
Increase in written complaints and inquiries	16 %	13 %	4 %
(Decrease) Increase in verbal complaints and inquiries	(23) %	5 %	1 %
Average days to resolve written complaints and inquiries	11	13	19
Number of days required to resolve 90% of written complaints and inquiries	72	72	107

While written complaints and inquiries increased overall by 16 percent, there was a decrease of 23 percent in verbal complaints and inquiries. We are conscious of a need to build better research capability that will enable sounder statistical and trends analysis. However, in the interim, we believe the decrease of 23 percent in verbal complaints and inquiries can be accounted for in a number of ways.

There were fewer inquiries about issues over which Ombudsman Ontario has no jurisdiction. This may be in part attributable to aggressive outreach and public education efforts in order to increase awareness of our specific mandate. Of the 23 percent decrease, 55 percent of it can be accounted for in the category of the Ministry of the Solicitor General and Correctional Services. We believe that, in great part, this has occurred as a result of computerizing our contacts with clients who are incarcerated in institutions; this initiative has enabled us to identify and respond to multiple and systemic complaints at an early stage, as well as to minimize the number of contacts clients may initiate with various staff members on the same issue. All of which have also resulted in more efficient and effective use of resources.

Verbal and Written Complaints and Inquiries

by final resolution

Verbal and written complaints and inquiries	1994-95	93-94	92-93
Complaint resolved by Ombudsman	1,217	907	886
Investigation discontinued	1,740	1,809	1,953
No action possible	680	880	1,202
Resolution facilitated/Referral given/Inquiry made	27,804	32,548	29,879
TOTALS	31,441	36,144	33,920

Glossary

Verbal complaint or inquiry

Complaint or inquiry usually received over the telephone.

Written complaint or inquiry

Complaint or inquiry received by note or letter with signature of client.

Resolution facilitated/referral given/inquiry made

Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.

No action possible

No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the client is anonymous, or it is beyond our capacity to facilitate a resolution.

Discontinued by Ombudsman or client

The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the client does not wish to pursue the matter further for various reasons.

Resolved by Ombudsman in favour of client

The complaint is supported in favour of the client.

Resolved by Ombudsman in favour of the Governmental organization

The complaint was not supported but suggestions for change of policy or systems is recommended to the Governmental organization.

Resolved by other means

The complaint is resolved with minimal involvement of the Ombudsman.

Initial Contacts

Written, verbal or
personal visit

31,441

36,144

33,920

Verbal Complaints and Inquiries

20,699

26,871

25,683

Against Provincial Government

7,793

11,798

12,521

Against Non-Provincial Organization

12,906

15,073

13,162

Provincial Ministry of S.G. & C.S.*

3,699

7,078

6,237

Other Provincial Ministry or Organization

4,094

4,720

6,284

Federal

1,875

2,573

2,595

Municipal

2,343

2,736

2,338

Private

7,387

7,974

6,615

Courts

673

885

775

Other

628

905

839

Provincial Ministry of S.G. & C.S.*

3,656

6,995

6,066

Other Provincial Ministry or Organization

3,888

4,438

5,909

Against Non-Provincial Organization

12,726

14,780

12,764

*Resolution facilitated/
Referral given/
Inquiry made*

43

83

171

206

282

375

180

293

398

No action possible

3,699

7,078

6,237

4,094

4,720

6,284

12,906

15,073

13,162

Totals of all resolutions

Verbal and Written Complaints and Inquiries

by organization or agency

	Verbal complaints and inquiries			Written complaints and inquiries			Totals		
	1994-95	93-94	92-93	1994-95	93-94	92-93	1994-95	93-94	92-93
Provincial:	7,793	11,798	12,521	8,924	7,509	6,987	16,717	19,307	19,508
Federal:	1,875	2,573	2,595	273	318	204	2,148	2,891	2,799
Municipal:	2,343	2,736	2,338	603	525	387	2,946	3,261	2,725
Private:	7,387	7,974	6,615	784	786	538	8,171	8,760	7,153
Courts:	673	885	775	113	94	76	786	979	851
Other:	628	905	839	45	41	45	673	946	884
	12,906	15,073	13,162	1,818	1,764	1,250	14,724	16,837	14,412
Totals:	20,699	26,871	25,683	10,742	9,273	8,237	31,441	36,144	33,920

*Provincial Ministry of the Solicitor
General and Correctional Services

The Ombudsman

spoke and/or presented papers at these venues during 1994-95:

Elim Lodge No. 29
14th Annual Banquet
& Ball
Toronto, Ontario
April 23, 1994

**Six Nations of the Grand
River Territory**
Community Presentation
Brantford, Ontario
April 27, 1994

**Ontario Multicultural
Association**
Awards Banquet
Toronto, Ontario
May 14, 1994

Friends for Seniors
Smiths Falls, Ontario
May 24, 1994

Kingston Public Library
Kingston, Ontario
May 24, 1994

YM-YWCA
Presentation to Community
Service Providers
Ottawa, Ontario
May 25, 1994

Legislative Library
Toronto, Ontario
May 30, 1994

**National Ombudsman
Conference**
Victoria, British Columbia
June 16-18, 1994

**Heart and Stroke
Foundation, Norfolk
Chapter**
Annual General Meeting
Simcoe, Ontario
September 14, 1994

**International Ombudsman
Institute**
Conference on the
Ombudsman Concept
Taipei, Taiwan
September 19-24, 1994

Native Canadian Centre
Toronto, Ontario
October 13, 1994

**International Ombudsman
Institute**
Board of Directors Meeting
Buenos Aires,
October 17-21, 1994

**Ontario Native Welfare
Administrator's Association
(ONWAA)**
Toronto, Ontario
October 25, 1994

**The Federation of Women
Teachers' Associations of
Ontario (FWTAO) & The
Women in Educational
Administration Ontario
(WEAO)**
"In Women's Voices"
Conference
Toronto, Ontario
November 19, 1994

**Victoria College, University
of Toronto**
Toronto, Ontario
November 21, 1994

Algoma University
Sault Ste. Marie, Ontario
January 19, 1995

Unity and Diversity Group
Sault Ste. Marie, Ontario
January 19, 1995

**Canadian Women's
Foundation and LMC
International Inc.**
Toronto, Ontario
January 26, 1995

**Canadian Bar Association
Joint Action Committee on
Gender Equality**
Toronto, Ontario
January 27, 1995

**University Women's Club of
Toronto**
Toronto, Ontario
February 9, 1995

**Thunder Bay Correctional
Centre**
Thunder Bay, Ontario
February 22, 1995

Accueil Francophone
Thunder Bay, Ontario
February 22, 1995

**Open House, Thunder Bay
District Office**
Thunder Bay, Ontario
February 22, 1995

Spirit of the People
Toronto, Ontario
February 27, 1995

**Human Rights and Race
Relations Centre**
Toronto, Ontario
March 21, 1995

**City of Scarborough
Community & Race
Relations**
Scarborough, Ontario
March 21, 1995

**Youth Conference on
Human Rights**
Ottawa, Ontario
March 31, 1995

Statistical Information Summary

- During the year the Ombudsman dealt with 31,441 inquiries and complaints (36,144 in 1993-94)
- Complaints increased 16% to 10,742 (9,273 in 1993-94) while inquiries decreased (23)% to 20,699 (26,871 in 1993-94)
- In 19,855 or 63% of the cases (25,536 or 71% in 1993-94) no further action was required or possible beyond giving of a referral or making an inquiry on behalf of the client.
- In 2,079 or 7% of the cases (1,595 or 4% in 1993-94) even though the client was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution to the matter.
- There were 1,740 or 5% cases discontinued (1,809 or 5% in 1993-94). Of these, 1,262 were discontinued by the Ombudsman because an adequate alternative remedy was available to the client, or no further involvement was required.

Statistical highlights

fiscal comparison

	1994-95	93-94	92-93
Increase in written complaints and inquiries	16 %	13 %	4%
(Decrease) Increase in verbal complaints and inquiries	(23) %	5 %	1%
Average days to resolve written complaints and inquiries	11	13	19
Number of days required to resolve 90% of written complaints and inquiries	72	72	107

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* Provincial Ministry of the Solicitor
General and Correctional Services

The Ombudsman

has been assisted this year by the following permanent staff of professionals:

ADDO, Kwame	GIGNAC, Pauline	ORTVED, Janet
AHMED, Safia	GLASIER, Anita	PARADISO, David
ALLAN, John	GRIFFIN, Dianne	PEASE, Irv
ANDERSON, Lee	HALL, Laurie	PENFOLD, Kathy
ANDERSON, Marney	HART, Anne	PETTIGREW, Laura
ANG, Jeanne	HASLAM, Sue	POPA, Manuela
ANGUS-JONES, Christine	HEDDEN-JENSEN, Alison	PRESNER, Matilda
ARKELL, Tim	HIRST, Barbara	RAY, Wendy
BAKER, Betty	HOLMES, Jackie	ROBINSON, Linda
BARCLAY, Kim	HUGH, Lira	RODGERS, Faye
BERNIER, Suzanne	HUTCHINSON, Esla	RODRIGUE, Danielle
BERTRAND, Julie	IRONS, Alison	ROSE, Janet
BLACKWOOD, Calvin	IRVINE, Tom	SANSONETTI, Josie
BOEHM, Annmarie	JOHNSON, Gini	SAUER, Michael
BOSWORTH, Robin	KALISZ, Eva	SCHULZ, Wolfgang
BOUCHER, Lorraine	KERSHAW, Janet	SEMENCIW, Joe
BOURNS, Maureen	KIESECKER, Barbara	SILVA, Madalena
BRYANT, Dale	KING, Dianne	SIMPSON, David
CARL, Mary	LA ROSA, George	ST-LOUIS, Stéphane
CARLINO, Gerry	LAWRENCE, Jane	TAYLOR, Michael
CASSON-ROBIN, Barbara	LEE, Allan	TERRENCE, Jo-Ann
CHAMBERS, Sharon	LEE, Barbara	THOMPSON, Reid
CHEFF, Don	LEE, Judith	VIRC, Elizabeth
CLÉMENT, Gilberte	LEGARDO, Lourdes	WESTON, Elizabeth
COOLMAN, Joyce	LEONARD, Joyce	WILCOX, Shelly
CORBEIL, Lise	LUCAS, Lourine	WONG, Jennifer
CORREIA, Jackie	MARCUZ, Vic	WORTHINGTON, Barbara
CREAN, Fiona	MASON, Sherry	YOUNG, Pamela
CUMMINGS, Penny	MASUKAWA, Barbara	
DEAR, Rosie	MAY, Laurel	
DELISLE, Gérard	MORRA, Dean	
DENNIE, Jean	NICHOLAS, James	
DEODAT, Zalina	NICHOLSON, Sherrie	
DE SOUSA, Joe	NUGENT, Mary Elizabeth	
DEWE, David and Pollux	OLASO-PEZESHKIAN, Rachel	
DIXON, Millicent	ORR, Michael	
DRAWBELL, Steven		
DURJANCIK, Ellen		
ETHIER, Hannalie		
EVANS, Cathy		
EYLER, Paula		
FARNCOMBE, Peter		
FARRELL, Nora		
FENTON, Mary Jane		
FERA, Jack		
FRASER, Simon		
FRIMPONG, Kwasi		
GAGNÉ, Micheline		
GELAUE, Inez		
GERHARD, Perry		

The Ombudsman also wants to recognize the contributions of a number of temporary staff who have assisted with a variety of projects over the past year.



District Offices

1 Kenora Office
12-308 Second Street S.
Kenora, Ontario
P9N 1G4
(807) 468-2851
468-2853(fax)
468-2972(TTY)
1-800-417-3255

2 London Office
920 Commissioners Road E.
London, Ontario
N5Z 3J1
(519) 668-0511
668-7187(fax)
668-7182(TTY)
1-800-519-9070

3 North Bay Office
450 Main Street W.
Unit#2
North Bay, Ontario
P1B 2V2
(705) 476-5800
497-9931(fax)
476-4156 (TTY)
1-800-895-3422

4 Ottawa Office
227 Rideau Street
Ottawa, Ontario
K1N 5X8
(613) 239-1487
239-1489(fax)
789-7386(TTY)
1-800-721-9909

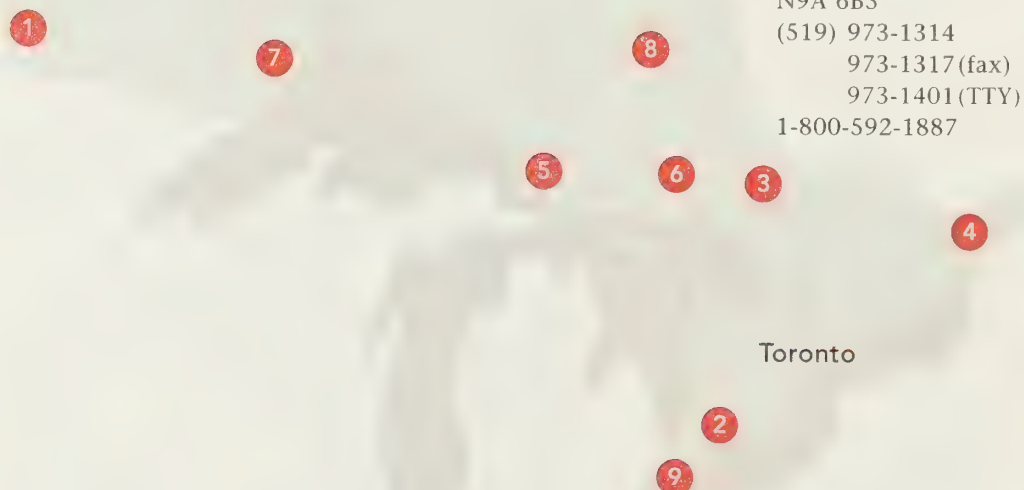
5 Sault Ste. Marie Office
143 Great Northern Rd.
Unit#2
Sault Ste. Marie, Ontario
P6B 4Y9
(705) 945-6914
945-6916(fax)
945-6884(TTY)
1-800-303-8745

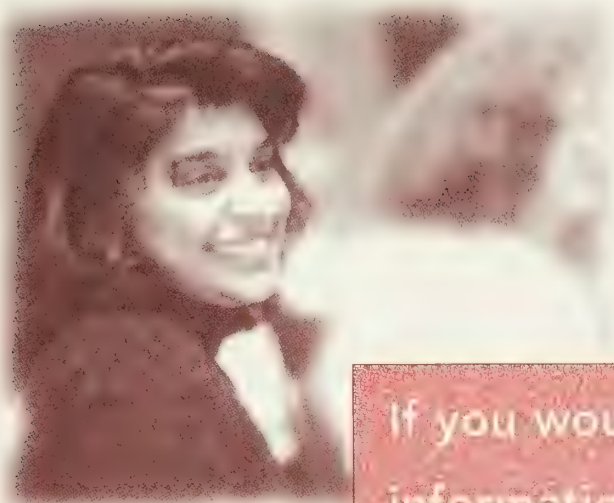
6 Sudbury Office
66 Elm Street
Suite 108
Sudbury, Ontario
P3C 1R8
(705) 688-3116
688-3084(fax)
670-0328(TTY)
1-800-583-8218

7 Thunder Bay Office
125 North Cumberland
Street
Thunder Bay, Ontario
P7A 4M4
(807) 345-9235
345-0378(fax)
346-9130(TTY)
1-800-430-7663

8 Timmins Office
85 Pine Street S.
Suite 108
Timmins, Ontario
P4N 2K1
(705) 268-2161
268-8377(fax)
268-2885(TTY)
1-800-459-4660

9 Windsor Office
224 Erie Street W.
Main Floor
Windsor, Ontario
N9A 6B5
(519) 973-1314
973-1317(fax)
973-1401(TTY)
1-800-592-1887





If you would like more information

about Ombudsman Ontario or would
like to file a complaint, call any of
the District Offices as listed on the
previous page or contact the
Toronto office.

Ombudsman Ontario
125 Queen's Park
Toronto, Ontario
M5S 2C7

Tel: (416) 586-3300
English toll free line: 1-800-263-1800
French toll free line: 1-800-387-2520
TTY line: 1-416-586-3510

The Annual Report is available in
English and French on both microfilm
and audio-cassette.

It is also available in large
print format.



OMBUDSMAN
ONTARIO



OMBUDSMAN
ONTARIO

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OM
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Annual

Report

1998/99



Ombudsman Ontario

"THE OMBUDSMAN SHALL REPORT ANNUALLY UPON THE AFFAIRS OF THE OMBUDSMAN'S OFFICE TO THE SPEAKER OF THE LEGISLATIVE ASSEMBLY WHO SHALL CAUSE THE REPORT TO BE LAID BEFORE THE ASSEMBLY..." *Ombudsman Act, S.11.*

1998/99

Accountability Human Rights Independence Fairness



OMBUDSMAN
ONTARIO

June 1999

Speaker
Legislative Assembly
Province of Ontario
Queen's Park

Dear Speaker:

I am pleased to submit to you my Annual Report for the period of April 1, 1998 to March 31, 1999, pursuant to Section 11 of the Ombudsman Act so that you may table it before the Legislative Assembly.

Yours sincerely,

Roberta L. Jamieson
Ombudsman

Roberta L. Jamieson
125 Queen's Park
Toronto, Ontario M5S 2C7
Telephone: (416) 586-3300
Facsimile: (416) 586-3485
TTY: (416) 586-3510
1(800) 263-1830 (English)
1(800) 387-2620 (Français)

Contents

	OMBUDSMAN'S MESSAGE
6	OMBUDSMAN'S RECOMMENDATION
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8	YEAR IN REVIEW
4	STAFF LIST
6	COMPLAINTS
26	CASE STORIES
48	THANK YOU LETTERS

As we near *the end of the* nineties
in public service in Ontario it is appropriate to
reflect, *to evaluate and to set*
a clear course *for the future.*



ROBERTA L. JAMIESON

OMBUDSMAN'S MESSAGE

THE END OF THE 1990s presents an opportunity to examine the state of public service administration in Ontario. As this moment coincides with the approach of the end of my ten-year term as Ombudsman, it is appropriate to reflect on the changes we have witnessed, to evaluate their impact and to begin the work of outlining a clear course for the future.

The past decade of governance in Ontario has been a period of unprecedented and unending change, marked more recently by an agenda of self-styled revolutionary change. We continue to be swept up in the tremendously significant phenomenon of globalization. Dramatic shifts in population demographics and immigration patterns, sharp challenges to economic competi-

tiveness, widening disparities between the rich and poor in our own communities and globally, and rapidly expanding communications technologies are among the defining features of this phenomenon. At the same time, not incidentally, there has been an increasing awareness of the need to safeguard human rights and promote accountability as essential characteristics of our democracy.

The prevalence and intensity of change as a constant factor has had a profound impact on the administration of government and on the relationship between the governed and those who govern. As Ontario's Ombudsman, someone who occupies a space directly between the government and the people, I have observed both the process and the impact of these changes from a unique vantage point.

In the early nineties the broad public sector began to pay increasing attention to those whose voices had not been heard before, to those who did not see themselves reflected in the public sector workforce and who could not see their diverse needs taken into account in the development or delivery of government programs. Responses were initiated to address the lack of meaningful participation and representation by groups who were seen as vitally important in regenerating core values of public service: racial minorities and people of colour, people with disabilities, gays and lesbians, Francophones, people who are economically disadvantaged or marginalized, First Nations and aboriginal people, consumer/survivors of psychiatric services, among

others. Government policies were directed toward a proactive approach to ensure equitable delivery of services and programs to everyone entitled, and to remove barriers to careers in the public service for those whose voices and presence had been largely ignored or neglected.

Service delivery concepts emphasizing equal treatment for all were challenged on the demonstrable grounds that standardization, uniformity and sameness in policy and practice were hardly adequate as governing principles. Demands were made for flexibility and creativity, for individual needs and circumstances to be addressed appropriately, for systemic change to enable the public service to respond more effectively to the real circumstances of Ontario's diverse population. Legislation was passed to create agencies such as the Pay Equity Commission, the Employ-

and indeed to our collective and individual attitudes toward client service. Many other public service organizations adopted similar commitments, reflecting a move toward greater sensitivity and built-in measures to ensure accountability.

In later years governments in all jurisdictions became preoccupied with what is seen as the primary challenge associated with the forces of globalization, an ever expanding and increasingly competitive marketplace. As a result, in Ontario, the focus shifted to debt and deficit reduction and defining the overall goal as achieving fiscal health through measures designed to promote competitiveness. Emphasis was placed on re-shaping a leaner public service, one that would not only cost less to administer, but would also be able to deliver a higher standard of service. Expectations about the quality of service to which the public is entitled

motoring improved "customer" service. The highest value was placed on achieving efficiencies. Public service agencies were required to review core responsibilities, to identify discretionary areas, and to cut spending radically. Ministries were merged and centralized, substantial program areas were transferred to municipalities, whole sectors previously regulated by government became self-regulating, public servants were laid off by the thousands and regional and local service delivery offices were closed throughout the province.

A Feeling Of Betraya

Many of the ground-breaking initiatives directed toward equitable service taken by government in the early 1990's were found not to meet the test of core responsibilities. Instead they were regarded as frills or add-ons, and many were summarily terminated. This was seen as not only the right thing to do in terms of saving money, but also was promoted as a correction from what was sometimes described as a policy of "reverse discrimination" that catered to "special interest groups." Somehow there was still an emphasis on doing more, and to a higher standard, with less.

For the last several years, as I have outlined in successive annual reports, my office has witnessed the impact of these changes on the every-day lives of Ontarians. The public served by my office is by definition in close contact with government. Many are directly dependent on its services and programs for their well-being, and include the people whose voices were given some measure of recognition in an earlier

ment Equity Commission, and the Advocacy Commission, organizations created to address historic disadvantages suffered by groups of people as a result of their gender, race or disability.

My own office adopted a clear mission to serve people equitably, justly and fairly. We committed ourselves publicly to a service concept where people would be treated according to their social location and individual circumstances. This required dramatic change to our policies and procedures,

were raised, and at the same time a pledge was made to transform the public service in record time to meet these expectations.

Government required a more "business-like" approach to service delivery and began to change its language of operation to reflect this requirement. Ministries were obliged to consider "alternative service delivery" models that included "partnerships" with or transfers to the private sector, and other privatization initiatives pro-

period. Among those who were active in pressing for the changes that had been adopted as a new hallmark of public administration, the hope and anticipation from these struggles has more recently been replaced by a feeling of abandonment and betrayal. They have been told that hard decisions must be taken to preserve today's standard of living for our children's tomorrow. But from the voices I hear, there is neither satisfaction with today's standards, nor a belief in the promise of tomorrow, either for themselves or their children. Instead, they see all manner of critical services dramatically cut back, from social assistance rates to eligibility requirements for disability benefits. They see an unwillingness on the part of government officials to make real change to serve people with disabilities appropriately. They see closed offices and overburdened public servants too busy to take the time to treat them with dignity and respect. They see an inaccessible and downsized public service, no longer a sector striving to remove systemic barriers.

As the province's Ombudsman, it is my job to be aware of any deficiencies in the administration of public service. From my point of view, it would not be an overstatement to say that public service administration in Ontario is in a state of crisis. It is one thing to conclude that people whose voices are no longer being heard by government are not being served appropriately. But there is another aspect of the current reality - these inadequately serviced people are here to stay. If their needs remain unattended, desperation will

grow and people can be expected to do whatever is necessary to ensure that government pays attention to them. In some circles there is a tendency to rely on the pejorative "special interest groups," as a strategy to deflect concern. In reality what is being talked about are sets of interests that arguably comprise those in the majority of the

population. In any case, there is nothing to be gained by encouraging the use of divisive epithets to dismiss legitimate claims for fair and equitable treatment by public institutions.

It has become clear that efforts to effect a wholesale transfer of a private sector approach to the provision of public service has been a failure. This should not be surprising, given that the bottom-line dictates of the business world do not include the well-being of people. The people who come to my office do not see themselves as customers, or as shareholders. In my experience they see themselves as unique individuals with a responsibility to contribute to society according to their special talents from their particular locations, and they expect that governments will ensure their needs are met by serving them fairly. It has also become clear that it is quite simply not possible to do more with less. On the contrary, people are painfully aware of the dramatic effects of the govern-

ment's restructuring initiatives and cuts in spending. They are today, in many cases, waiting longer for services to be provided by fewer public servants working to a lower standard, one that is less than what they were told by government they could expect.

I reported last year on a number of key program areas which were the subject of complaint to my office and which prompted me to initiate broad systemic investigations. In human rights enforcement, court-ordered support payments, birth relative searches, the processing of injured workers claims, social assistance appeals and other important areas it had become clear that the new, leaner public service was not able to deliver an acceptable level of even the core services they were obligated by legislation to provide. At that time, the government ministries involved provided assurances they would take the necessary steps to address unacceptable service levels. Regrettably, a number of these same agencies were the subject of Final Reports tabled with the Legislature this spring. These reports were the last step in the Ombudsman investigation process, where I call upon the Legislature as a whole to address an unacceptable situation the government

4

has failed to correct. In each of the cases I reported the public servants involved were not at fault. Generally speaking, they are committed professionals dedicated to serving the public to the best of their abilities. The fact is a demonstrable lack of resources has led to an inability to provide acceptable levels of service, and senior government officials have failed to take adequate steps to address the problems.

As Ombudsman I have witnessed the development of what I can only describe as an atmosphere of fear among public servants, where senior officials are afraid to question the wisdom of the government's approach for fear of reprisal or loss of reappointment. As a result, many of the values

the Family Responsibility Office going out of its way to indicate the total amount of money being delivered in support payments, or the Ontario Human Rights Commission emphasizing the number of cases being closed, as if these figures serve as an accurate reflection of overall service quality.

It has been my experience in recent years that there is a fundamental contradiction between promising higher standards of service on one hand and on the other, systematically underfunding those agencies mandated to deliver the service. This contradiction becomes more acute as the gap between the rich and the poor widens and there is a greater need among the population, especially those most vulnerable, for

service administration. Strategic and decisive action must be taken to reposition and equip the public service and to imbue its administration with the values of fair and equitable treatment for all people in Ontario. To accomplish this, deliberate steps must be taken to train and reinvigorate the public service and to provide it with the necessary tools to implement this vision.

This does not imply a return to another time, or a rejection of new ways of delivering service. Rather, in my view, what is required to meet today's challenge is the adoption of new definitions of service standards. Concepts of adequacy should include that which is necessary to provide for the well-being of people. Efficiency should be measured by including long term social costs that accompany new service arrangements, and at a minimum, standards must require that people be treated with respect and dignity. Among other things, this requires that government demonstrate its commitment to the protection and enforcement of human rights by taking decisive steps to eradicate systemic discrimination within the public service itself. Action must also be taken to address the longstanding ineffectiveness of the Ontario Human Rights Commission, an agency whose credibility among the public has been seriously damaged by its repeated patterns of delay and poor management.

We are at a crossroads in Ontario where there are choices that must be made. We can decide to stay the course and hope that those who reassure us things are getting better are right. There are, however, consequences to

upon which the public service has historically relied, including the obligation to "speak truth to power" even when the truth is unwelcome, have been seriously undermined. I have also observed a not unrelated trend as some senior officials become unwilling to admit their inability to deliver adequate service. Instead they offer reassurances that despite evidence to the contrary, all is well, things are getting better, and improvement is just around the corner. I have received a number of such responses this year to investigative findings. These often include statistics taken out of context, as in the case of

fair and equitable treatment by government. The result of this tension between expectations and reality is a public service in serious decline and increasing numbers of people in crisis.

Re-Visioning Public Service

The challenge awaiting government for the next decade and beyond is the imperative of addressing this contradiction. If the decline in our public institutions is to be arrested and the crisis in everyday survival which real people are experiencing is to be eradicated, we must have the courage to re-vision the responsibilities of government in public

such a decision, particularly in light of warning signals that have been evident for some time. We cannot ignore the very real prospect of a further decay in public administration as the lineups for service become longer and our ability to keep up with demand is diminished. There is no doubt that in this direction lies a further loss of basic service, including the protection of human rights. And as one consequence leads to another, we can expect increasing displays of desperation, anger and hostility among those who feel they are being ignored or silenced.

The road I am advocating is not a simple one to chart, particularly to re-direct our energy toward fundamental values where the bottom line focuses on the people on the receiving end of service delivery. Neither will results be achieved overnight. However, setting such a new direction is necessary to allow all Ontarians to see themselves and their needs reflected in their public service, and it will allow all of us to move forward together. It will also mean that we re-affirm a commitment to fair and equitable treatment for all, to the central mission of advancing human rights in public administration and to the promotion of a willingness by government to be held accountable for its actions.

Independence is Cornerstone of Ombudsman's Credibility

At the end of my term as Ombudsman I have been able to reflect on a full decade of public administration in Ontario, during which I have been privileged to lead my office through

terms of governments from three different political parties. We have endured tremendous change both internally and externally and have matured as an organization with pride in its ability to adapt to changing circumstances. We have also struggled to maintain our commitment to equitable service in the face of funding cutbacks. We were forced to close four of ten regional offices and layoff more than 25% of our staff, reducing our ability

to conduct outreach and public education, while making it harder to service a continuing high volume of complaints. Within this context we made many adjustments and restructured our operation in several critical areas, including: the creation of traveling staff representatives to hold local intake clinics; the opening of a province-wide client access centre with rigorous standards for service, including staff contact within 24 hours and a telephone program providing access to interpreters in 110 languages; the publication and wide distribution of newsletters; and an investigative focus on systemic complaints.

I have always believed in modeling the Ombudsman office as an organization that sets standards others can follow. The concepts of equitable treatment, respect for human rights, and

accountability and transparency in government must be regarded as part of the very fabric of our democracy. But these principles must also be guarded vigilantly if they are to remain so. They cannot be taken for granted. As part of this vigilance we must ensure that the institutions which we have created to protect these values are kept strong and healthy. For the Ombudsman's office this means a continuing commitment to safeguard its independence from gov-

ernment and the political process. This independence is the cornerstone of credibility for the Ombudsman's office and it must be assured as the appointment of my successor is considered.

The process for appointing the Ombudsman is not a transparent one. It remains something of a mystery as there are no clear criteria for selection. I am recommending the government and the Legislature establish a public and transparent process of appointment to ensure the office of Ombudsman is accessible to any who might seek it. In addition, a special committee of the Legislature should be created comprised of one member from each of the recognized parties and chaired by the Speaker to oversee the appointment process. The successful candidate should have the approval of all members of the committee. With such an appointment

process, the Legislature would reaffirm its commitment to ensuring the Ombudsman office remains independent, effective and relevant for future generations of Ontarians.

I have been immensely honoured to have had an opportunity to fulfill this role for the past ten years. It is one I could not have carried out without the support and guidance of so many people. I would like to pay tribute to the people of Ontario who have worked with me every day to improve public administration in our province by speaking out whenever they experience unfairness. I gratefully acknowledge the staff of Ombudsman Ontario, with whom I have been privileged to work as colleagues in moving forward

the impetus for positive change, and I wish to thank the dedicated public servants upon whose cooperation in resolving complaints we depend. Finally, to my entire family and in particular to my partner Tom and daughter Jessica, who have sacrificed so much at a personal level and whose love and support have enabled me to serve in the capacity of Ombudsman, I express my love and appreciation. Nya weh. Thank you.



Roberta Jamieson, Ombudsman

OMBUDSMAN'S RECOMMENDATION

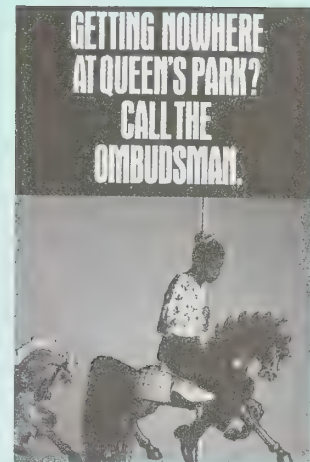
The Government and the Legislature establish a public and transparent process of appointment to ensure the office of Ombudsman is accessible to any who might seek it.

A special committee of the Legislature should be created comprised of one member from each recognized party and chaired by the Speaker to oversee the Ombudsman appointment process. The successful candidate should have the approval of all members of the committee.

Ombudsman Office *nears*

25
year

THE OFFICE OF OMBUDSMAN was established by the Ontario legislature in 1975. Arthur Maloney was sworn in as the province's first Ombudsman in October of that year, following passage of the *Ombudsman Act*. There had been various attempts to persuade government to introduce such legislation dating from as early as 1962. In 1965, Vernon Singer, MPP for Downsview, introduced a private member's bill calling for the appointment of a "Parliamentary Commissioner" to investigate administrative decisions and acts of officials of the provincial government and its agencies. Mr. Singer continued to introduce this bill for the next ten consecutive sessions of the Legislature. By this time, six other provincial governments had created Ombudsman offices: Alberta and New Brunswick (1967), Quebec (1968), Manitoba and Nova Scotia (1970) and Saskatchewan (1972). In March 1975 the government's Speech from the Throne promised the introduction of legislation to create an Ombudsman. Since Mr. Maloney's appointment, three others have held the office: Mr. Justice Donald Morand (1979-84), Dr. Dan Hill (1984-89), and Roberta Jamieson (1989-present). Next year the Ombudsman's office will celebrate its 25th anniversary.





YEAR IN REVIEW

"SETTING A NEW DIRECTION IS NECESSARY TO ALLOW ALL ONTARIANS TO SEE THEMSELVES AND THEIR NEEDS REFLECTED IN THEIR PUBLIC SERVICE, AND IT WILL ALLOW ALL OF US TO MOVE FORWARD TOGETHER."

- *Inside Ombudsman Ontario*
- *Statement of Expenditures*
- *Financial Statement*
- *Standards of Service*
- *Backlog Management*
- *Equity Outreach Program*
- *Promoting Ombudsmanship*

During the *past year* **change**
continued to be a constant
factor *at Ombudsman Ontario.*

9

1998/1999 INSIDE OMBUDSMAN ONTARIO

SINCE 1996 we have downsized three times and during this period we also undertook a complete re-engineering of our business processes and restructuring of the organization. This year we continued to adapt to change by placing a premium on teamwork and emphasizing a new style of partnership, both internally and externally. We established a strategic planning cycle that is key to our ability to meet both our mandate and long term objectives. Our current organizational goals are to maintain relevance, ensure service quality, achieve results, build capacity and develop leadership. The organizational planning cycle includes workplans that are tied to budget planning and individual performance contracts with managers. We have developed a three-year future perspective for strategic planning in addition to annual workplans.

On the complaints resolution front, while the focus on early intervention and non-adversarial means of complaint

resolution remains a key element of successful Ombudsman work, we have also placed priority on a number of own-motion systemic and system-wide investigations. This year also saw the introduction of a trends analysis program to enable the Ombudsman to systematically review trends across the public service and government. This includes the number and type of complaint, demographics of the population complaining and the nature of the complaints.

A Complaints Resolution manual was recently completed to ensure consistency of approach in complaint handling and to provide a resource and training document for both intake and investigative staff. Our Case Management system, which was designed by our own staff and is tailored to Ombudsman complaint handling, has been a source of much interest in other Ombudsman jurisdictions at the provincial, national and international levels. To that end, we are in the process of licensing the system, developing user manuals and making it available.

An organizational evaluation system has been developed and implemented to measure the effectiveness of our service standards to ensure that they continue to be consistent with the principles of our Mission Statement and to promote transparency in our work.

An organizational-wide training program was also introduced this year to build general organizational capacity and to ensure that staff skills and knowledge are up-to-date and relevant. Areas targeted by the training program have focused on complaints resolution, computer and technical skills, performance effectiveness, service delivery, and specialized areas such as accounting, archiving and records management. Advance consultation, learning objectives and expected results are key aspects of this program.

The negotiation of a new collective agreement was successfully completed in March 1999 and a Job Evaluation plan was finalized through the course of this year for all positions at Ombudsman Ontario.

The concepts o

EVALUATION OF OMBUDSMAN ONTARIO'S STANDARDS OF SERVICE

OMBUDSMAN Ontario's commitment to provide service to members of the public in accordance with their diversity, circumstances and individual needs was outlined in last year's annual report. This year an organizational evaluation system was introduced to measure the effectiveness of all service standards to ensure they continue to be consistent with the principles of our Mission Statement and serve to promote transparency in our work.

A telephone survey of more than one thousand clients of Ombudsman Ontario was conducted this year by an external consultant as part of this evaluation of Ombudsman services and operations. Clients expressed a high rate of satisfaction with their experience in bringing forward a complaint or inquiry to the Ombudsman (as reported in the Spring edition of *Connection* newsletter). The results of this survey will be used as baseline

data to enhance the capacity for further evaluations and to support efforts to improve the delivery of Ombudsman Ontario service to the public.

Evaluation reports conducted this year show that the standard for handling telephone inquiries with requests for information or referrals on the same day is met 70% of the time, with the balance requiring further time for call-backs or other information gathering. For similar written inquiries, 90% are completed within one week. In the results reported from the client survey, 83% of respondents indicated they were able to speak to the appropriate staff member on their first call.

Informal inquiries by Ombudsman staff to seek resolution of complaints are completed 94% of the time within the 15-day timeline. When further investigation is required, clients are informed in writing that their file has been assessed and placed in a managed backlog register. In 1997/98, files assigned to the backlog register remained there an average of 3¼

months, down from four months the previous year.

When a file is assigned to an Investigator, a new set of service standards apply depending on the type of investigation. In 1997/98, 59% of files requiring documentary review and analysis were completed within the three-month timeline. Investigations that are to be completed within six months met this timeline in 80% of cases and for more complex investigations, 92% were completed within nine months.

The service standards for complaints and inquiries from persons incarcerated in provincial institutions are currently under review as a result of organizational changes made this year in how these matters are dealt with. Enhancements to the case management system developed by Ombudsman Ontario have also been implemented in the past year. These changes will permit the service standards to be monitored and adjusted as required due to fluctuations in caseloads and changes to existing resource levels.

STATEMENT OF EXPENDITURES

Expenditures	98-99 Estimates \$ (note 4)	98-99 Actual \$	97-98 Actual \$
Salaries and Wages	4,667,300	4,340,312	4,371,298
Employee Benefits (note 3)	1,021,000	958,913	1,395,060
Transportation and Communication Services	524,000	452,045	437,790
Supplies and Equipment	1,498,400	1,641,404	1,745,627
Sub Total	282,300	596,646	485,225
Less Miscellaneous Revenue	7,993,000	7,989,320	8,435,000
	0	125,723	19,188
Total Expenditures	7,993,000	7,863,597	8,415,812

See accompanying notes to financial statement.

Approved:

Ombudsman

NOTES TO FINANCIAL STATEMENT

March 31, 1999

1. ACCOUNTING POLICIES

(a) Basis of accounting

The Office uses a cash basis of accounting which, in the case of expenditures, is modified to allow an additional thirty days to pay for goods and services pertaining to the fiscal year just ended.

(b) Furniture, equipment and leasehold improvements

Expenditures on furniture, equipment and leasehold improvements are expensed at the time of purchase.

2. EXPENDITURE AND MISCELLANEOUS REVENUE

Expenditures are made out of moneys appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.

3. PENSION PLAN

The Office provides pension benefits for all its full-time employees through participation in the Public Service Pension Fund (PSPF) established by the Province of Ontario.

The Ontario Public Service Employees' Union Pension Act, 1994 provided for a reduction of the employer's contributions to the PSPF which ended March 31, 1997. As a result, there was a net over contribution of approximately \$94,000 and a credit for this amount was received from the Ontario Pension Board in 1998/99. The amount was considered a prior year refund of expenditure and as such was deposited into the Consolidated Revenue Fund.

The Office's contribution related to the PSPF for fiscal year 1998/99 was \$311,116 (1998 - \$490,783) and is included in employee benefits.

4. RESTRUCTURING COSTS

Included in the 1998/99 Estimates for Salaries and Wages, Employee Benefits and Services is a restructuring fund totaling \$280,000 (1998 - \$651,300), for the necessary ongoing restructuring as a result of a 20 per cent budget reduction in 1996/97. The actual restructuring cost for 1998/99 was \$276,677 (1998 - \$748,787).

5. THE YEAR 2000 ISSUE

The year 2000 issue arises from the fact that many computer systems express years by using two digits rather than four, with the assumption that the first two digits are always "19". Such systems, if not modified or replaced, could misinterpret the year before and after January 1, 2000 (eg., read "00" as the year 1900 rather than the year 2000). The results could range from miscalculations to system failure causing a temporary inability to process transactions or engage in normal business activities.

Ombudsman Ontario has reviewed its corporate systems in order to assess these potential risks. However, due to the general uncertainty inherent in the year 2000 issue, resulting in part from the uncertainty of the year 2000 readiness of other parties, Ombudsman Ontario is unable to deter-

mine at this time whether the year 2000 issue will have a material and adverse impact on Ombudsman Ontario's results of operations, liquidity and financial condition.

SALARY DISCLOSURE

The following list of those earning \$100,000 or more in T4 income for the year 1998 is being reported in accordance with the Public Sector Salary Disclosure Act, 1996:


Roberta Jamieson, Ombudsman

T4 Income: \$ 116,931.88
T4 Taxable Benefits: \$ 4,255.72

Fiona Crean, Executive Director

T4 Income: \$ 119,703.74
T4 Taxable Benefits: \$ 329.28

Office of the
Provincial Auditor
of Ontario



Bureau du
vérificateur provincial
de l'Ontario

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(416) 327-2381 Fax: (416) 327-9862

Auditor's Report


To the Ombudsman

I have audited the statement of expenditures of Ombudsman Ontario for the year ended March 31, 1999. This financial statement is the responsibility of that Office's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 1999, in accordance with the accounting policies described in note 1 to the financial statement.

Toronto, Ontario
April 28, 1999



K.W. Leishman, CA
Assistant Provincial Auditor

MANAGING THE BACKLOG REGISTER

THIS PAST YEAR was the first full year of the implementation of Ombudsman Ontario's managed backlog register. Following cutbacks to the Ombudsman's budget allocation in 1996-97 and the resulting reductions in staff, the Ombudsman created the register as one measure designed to ensure efficient complaint handling and to stabilize caseloads among staff.

The managed backlog register assigns priority status to complaints that are not receiving active attention. Files that are going forward to investigation are given an initial assessment to determine priority according to a number of factors. These include: urgency; systemic and adverse impact discrimination; system-wide relevance; degree of vulnerability and marginalization of complainant; and the time elapsed from receipt of the complaint. At the end of the 1997-98 fiscal year, there were 349 complaints in the backlog register.

In the 1998-99 fiscal year, the Ombudsman was given a one-time special allocation by the Legislature's Board of Internal Economy to address the increasing backlog. Temporary staff were hired to deal with files in the backlog and as a result, the number of files decreased steadily. On March 31, 1999, there were nine files remaining in the register. Files are currently coming out of the backlog in a timely manner. This management system can be characterized as an effective triage method in which files that have been given priority are assigned out of the register as soon

as a staff person becomes available. For files that have not been given as high a priority, they are assigned to a staff person for further review as quickly as resources permit - for the most part, within one or two months.

A staff person who receives a complaint file from the register has defined timelines within which to handle the file. These timelines vary according to the type of investigation that will be required and staff keep clients informed of the status of their complaint. These timeline standards for complaints resolution have been established so that clients can know what to expect and to minimize any gaps between expectations and service delivery in the context of reduced resources.

COMPLAINTS ABOUT US

IN JUNE 1996, the Ombudsman established a system for reviewing complaints from the public or government employees who are dissatisfied with the manner in which a complaint is handled by staff at Ombudsman Ontario. The dissatisfied client is encouraged to first raise the issue with the staff person involved. If this does not resolve the issue, the client is encouraged to speak to the individual's manager. If the complaint is still not resolved, the Executive Director is contacted. Where clients remain dissatisfied, the Ombudsman will refer a complaint to one of our Legal Advisors for review as they do not have direct managerial responsibility for complaint handling.

In 1998-99, we received a total of 50 complaints, an increase from 44 in

the previous year. Thirty-five of these complaints concerned clients' dissatisfaction with the outcome of our investigation of their complaint. In 29 of these cases, following a review of the file, it was found that further investigation was not required. In another three cases, a review of the file determined that further investigation was required. The last three of the complaints were received in late March and remained open beyond the end of our reporting period.

Twelve of the 54 complaints involved staff conduct. Eleven of these complaints were not found to be substantiated. In four of the unsubstantiated cases, further explanations were provided on the function of the Ombudsman's office so the client could have realistic expectations about the role and responsibility of Ombudsman Ontario staff. In another unsubstantiated case, the client was asked to provide documents which had been previously requested to assist staff in the review of this complaint. One of the 12 complaints about staff conduct was reassigned to another staff for further review.

Five of the 54 clients complained about a delay in communication or lack of contact from our staff. In all cases, staff immediately contacted the individuals and provided a status update on their cases. In three of the five cases, an apology was extended about the undue length of time it took to address the individual's issue, and the client was told when he or she could expect the next stage of the review to be completed. In the fourth case, Ombudsman staff discovered the client had not provided a change of

address and a letter which had been sent to the client's former address was redirected. A fifth case, upon review, was found to have been acted on within the Ombudsman Ontario timelines standard. This standard was adjusted during the course of the year. The former policy required that clients be contacted at least every two months when their complaints were being formally investigated. Because this timeline caused concern for many clients, staff are now required to contact clients at least once a month.

Of the two remaining cases, one client expressed the need for a regional office in his locality. The Ombudsman explained that the office's budget allocation did not allow her to open any more offices at the present time. Another client complained about the fact that Ombudsman Ontario staff asked for a response within specific timelines. These timelines were extended to accommodate him.

EQUITY OUTREACH PROGRAM LAUNCHED

IN 1998 Ombudsman Ontario launched a new Equity Outreach program. This initiative was designed to replace our Public Education program, which was first curtailed because of budget cuts and staff reductions in 1996-97, and then discontinued last year. The goal of equity outreach is to ensure that those people who are most likely to be in need of our services, but who are likely to have the least access, are provided with information about the Ombudsman's services.

The program focuses on groups who have traditionally experienced barriers to services in general, and to government programs in particular. These include youth, seniors, people with disabilities (with particular emphasis on psychiatric consumers and survivors), First Nations and Aboriginal people, racial minorities and people of colour, Francophones, women, gays and lesbians, people who are poor, and those with literacy challenges. While not all individuals within these groups experience barriers to service, the challenges for many are great.

Staff members have been meeting with groups of consumers and staffing information booths at key events across the province. Among the many events we attended this year were the following:

- Mayfest (an annual event in Toronto for the hard-of-hearing and deaf communities)
- "Foire de la Francophonie" in Sudbury
- International Plowing Match, held in the Kingston area
- Seniors Fair in Windsor
- The opening of the Sault Ste Marie Teen Centre
- The Psychiatric Survivors Network of Elgin
- People in Motion, an event involving people with disabilities, in Toronto
- Special Needs Network fair in Ottawa
- Tri-Town Agricultural Fair in New Liskeard
- Northwest Patient Council's Regional Conference in Thunder Bay

We also met with many groups, including:

- A First Nation adult class on Manitoulin Island
- Young offenders in a detention centre in North Bay
- Graduates of a union counsellors' course in Windsor
- The Phoenix Rising Women's Centre in Sault Ste Marie
- A LINC class in Toronto
- Residents of a seniors' centre in Blind River
- Young people attending programs at the YM/YWCA in Sarnia
- Female offenders at the Elgin-Middlesex Detention Centre

In addition to conducting equity outreach activities, staff members have also held intake clinics across the province. Because regional offices in Timmins, North Bay, Kenora and Windsor were closed last year as a result of budget cutbacks, special emphasis was placed on conducting regular intake clinics in the north-eastern, north-western and south-western areas. These activities are in part designed to complement the outreach done by the Ombudsman as she undertakes speaking engagements across the province.

OMBUDSMAN ONTARIO STAFF LIST - MARCH, 1999

Manager
Roberta Jamieson

Executive Director
Fiona Crean

Executive Assistant
Carolyn Braulich

Executive Assistant
Rachel Olaso-Pezeshkian

Secretary
Dora Gimenez-Dixon

COMPLAINTS RESOLUTION TEAMS

Manager
Alison Dantas

Team Leader
Thomas Irvine
Eva Kalisz

Betty Baker

Michelle Amaral
Francois Beliveau
Zalina Deodat
Joanne De Varennes
Naomi Maluma
Gabriella Trotta

Irene Buncel
Mary Carl
Rosie Dear
Hannalie Ethier
Micheline Gagné
Pauline Gignac

Millicent Dixon
Barbara Hirst
Barbara Kiesecker
Elizabeth Virc

FINANCE AND ADMINISTRATION

Manager
John Allan

Janet Rose

Judith Lee

Wolfgang Schulz

Maureen Bourns
Jackie Holmes

Manager
Lise Corbeil

Administrative Secretary
Annick Lafleche

Team Leader
Mary Elizabeth Nugent

Ombudsman Representatives
Danielle Barbeau-Rodrigue

Kim Barclay
Julie Bertrand
Jean Dennie
Lira Hugh
Marie-Claire Muamba

Kwame Addo
Gerry Carlino
Kathy Penfold
Elizabeth Weston
Barbara Worthington

COMPLAINTS ANALYSIS AND INFORMATION

Programmer Analysts
Kwasi Frimpong
Dianne King

Joyce Coolman

Clerical and technical Support
Suzanne Bernier

Programmer
Jackie Correia

Manager
Duncan Newport

Team Leader
Tim Arkell

Ombudsman Representatives
Robin Bosworth
Amita Shunglu
Laura Spiers
Pam Young

Investigators
Christine Angus-Jones
Calvin Blackwood
Mary Jane Fenton
Jim Nicholas

POLICY, LEGAL, RESEARCH AND COMMUNICATIONS

Communications Coordinator
Gene Long

Administrative Secretary
Dean Morra

Legal Advisors
Laura Pettigrew
Wendy Ray
Tammy Hauerstock

Analyst/Investigator
Lorraine Boucher

Policy Advisor
Michael Orr

Research Assistant
Sherrie Nicholson

Manager
Alison Irons

Team Leader
Sue Haslam

Administrative Secretary
Lourdes Legardo

Ombudsman Representatives
Marc Despatie

Anne Hart
Esla Hutchinson
George La Rosa
Lourine Lucas
Joe Semenciw
Ellise Amenu
Winsome Cain
Beena Rajendra

Investigators
Jack Fera
Anita Glasier
Matilda Presner
Cathy Rea

HUMAN RESOURCES COORDINATOR

Human Resources Coordinator
Joyce Leonard

PROMOTING OMBUDSMANSHIP

ROBERTA Jamieson, Ontario's Ombudsman, was elected the first President of the Canadian Ombudsman Association at the organization's founding meeting in Yellowknife, NWT last summer. The Association adopted a number of objectives, including the promotion and creation of independent legislative Ombudsman offices at the federal, provincial, territorial, municipal and other local levels; the strengthening of Ombudsman offices throughout Canada; and the collaboration with regional and international ombudsman organizations to promote fairness and good governance, including respect for fundamental human rights.

The provincial, territorial and local participants attending the meeting also resolved to call upon the Government and Parliament of Canada to establish a general federal Ombudsman. This would enable the people of Canada to exercise their democratic right to independent review and investigation when they believe their right to fair treatment has been infringed by federal public bodies.

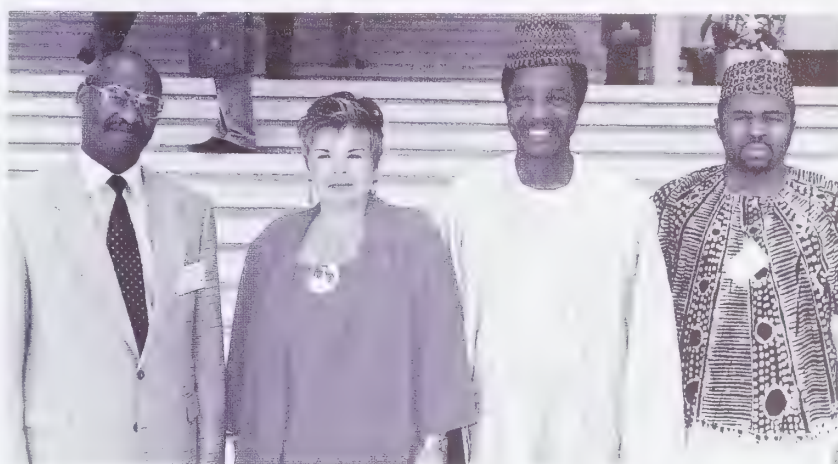
Ms. Jamieson continued a busy schedule during the past year in her role as North American vice-president of the International Ombudsman Institute. She hosted visitors seeking assistance and advice from the Ombudsman of Botswana and from the Institute of State and Law at the Russian Academy of Sciences. She also

co-hosted a conference in April this year "Governance, Accountability and Human Rights in an Era of Change" which was attended by Ombudsman representatives from Sri Lanka, Honduras, Peru, Namibia, Uganda and Tanzania through financial assistance provided by the Canadian International Development Agency.

Ms. Jamieson was also invited to travel to Hong Kong where she delivered a workshop to Ombudsman of the Hong Kong Ombudsman and presented two papers, "The Protection of Human Rights" and "The Handling of Prison Complaints in Ontario", to a Complaints Management Workshop involving senior government officials. Ms. Jamieson was a guest speaker at the Regional Ombudsman Conference for Eastern, Southern and Central Africa, held in Kampala, Uganda, where she presented a paper "Enhancing Human Rights and Strengthening Government Accountability: Re-designing

the Ombudsman for the 21st Century." Ms. Jamieson was also invited to attend the Third Annual Conference of the Ibero-American Federation of Ombudsmen held in Lima, Peru. Ms. Jamieson's participation in these events was sponsored by her hosts.

Ms. Jamieson was invited to speak at a number of other special events this year, including: an international conference marking the 50th anniversary of the adoption of the United Nations Charter of Human Rights in Edmonton, a roundtable forum organized in Ottawa by the Canadian International Development Agency, and a symposium on the topic "Hate on the Internet", sponsored by the Law Society of Upper Canada. She also hosted meetings at her office with staff of the Department of National Defence Ombudsman, the New Brunswick Ombudsman and three members of the Quebec National Assembly.





Complaints

"THE PREVALENCE AND INTENSITY OF CHANGE AS A CONSTANT FACTOR HAS HAD A PROFOUND IMPACT ON THE ADMINISTRATION OF GOVERNMENT AND ON THE RELATIONSHIP BETWEEN THE GOVERNED AND THOSE WHO GOVERN."

- *Story in Numbers*
- *Service Equity*
- *Complaints by Riding*
- *Complaints by Organization*
- *Resolution of Complaints*
- *Correctional Complaints*

In 1998/99, *Ombudsman Ontario*

29,396 inquiries and complaints, *an increase of 57*
compared *to the previous year*

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THE COMPLAINT STORY IN NUMBERS

IN 1998/99, Ombudsman Ontario handled 29,396 inquiries and complaints, an increase of 57, or .2% compared to the previous year. There was an increase of 5% in the number of written complaints and a decrease of almost 3% in those submitted verbally. The vast majority of the verbal inquiries (70%) were resolved by providing information and an appropriate referral within one day of their receipt. Ombudsman staff now deal with 50% of written complaints within seven days, compared to ten days in the previous year. By continuing to emphasize early and informal resolution of these matters, Ombudsman staff are able to assist the individual who raises the concern and at the same time provide the government agency an opportunity to respond to the problem quickly.

The successful resolution of complaints at all stages of the investigative process continues to be the focus of efforts by Ombudsman staff. Those matters requiring a formal investigation took an average of 13 months to complete from opening to closing, compared to 16 months in 1997/98. On average, this included 3.25 months of time with the file assigned to a managed backlog register prior to active investigation. This time in the backlog register was down from four months last year, leaving an active investigation period on average of 9.75 months.

While there was a significant drop in verbal inquiries about provincial government organizations, there was an increase of 8% in written complaints, including an increase of about 13% in complaints and inquiries against the Ministry of the Solicitor General and Correctional Services. This increase is due in part to our increased capacity to

respond to these inquiries by the addition of three temporary staff. The decrease in verbal inquiries is partially attributable to an overall decline of 35% in complaints about the Family Responsibility Office. This decrease follows last year's dramatic increase in activity concerning this agency, which was the subject of an own-motion investigation about its poor service delivery record.

The proportion of written complaints in which a resolution was facilitated, a referral given or an inquiry made was 77%, compared to 71% in 1997/98. In considering all written and verbal complaints and inquiries together, this figure rises to 91%, an increase of 9% from last year. There was an overall increase of 14% in non-provincial complaints this year involving municipal and federal agencies and private organizations.

COMPLAINTS AND INQUIRIES CLOSED DURING 1998-99

	Verbal Complaints and Inquiries			Written Complaints and Inquiries			Total		
	98-99	97-98	96-97	98-99	97-98	96-97	98-99	97-98	96-97
Provincial	4,623	7,125	7,824	9,768	9,052	8,771	14,391	16,876	16,595
Municipal	2,248	1,951	1,923	236	331	354	2,484	2,282	2,277
Federal	1,607	1,687	1,668	174	207	200	1,781	1,894	1,868
Private	7,853	7,571	6,774	546	600	601	8,399	8,171	7,375
Courts	468	544	512	99	100	94	567	644	606
Other	1,727	139	245	47	32	46	1,774	171	291
Total Non-Provincial	13,903	11,892	11,122	1,102	1,270	1,295	15,005	13,162	12,417
Totals	18,526	19,017	18,946	10,870	10,322	10,066	29,396	29,339	29,012

OUTCOME OF COMPLAINTS AND INQUIRIES CLOSED DURING 1998-99

	Non Provincial			All Provincial			Provincial Government					
							Ministry of S.G and C.S.			Other Provincial		
	98-99	97-98	96-97	98-99	97-98	96-97	98-99	97-98	96-97	98-99	97-98	96-97
Resolution facilitated/Referral given/Inquiry made	13,872	11,811	10,939	4,468	6,768	7,453	1,200	1,528	2,109	3,268	5,240	5,344
No action possible	31	81	183	155	357	371	137	261	222	18	96	149
Investigation discontinued by Omb.				909	1,188	857	459	791	418	450	397	439
Investigation discontinued by client				826	448	387	773	328	276	53	120	111
Resolved by Omb. in favour of client				182	576	730	89	382	507	93	194	223
Resolved by Omb. in favour of government				73	182	177	4	7	2	69	175	175
Resolved by Omb. by other means				112	63	101	101	45	76	11	18	25
Resolution facilitated/ Referral given/ Inquiry made	1,051	1,205	1,244	7,278	6,437	6,390	1,857	853	1,423	5,421	5,584	4,967
No action possible	51	65	51	388	158	129	169	38	22	219	120	107
Totals of all resolutions	15,005	13,162	12,417	14,391	16,177	16,595	4,789	4,233	5,055	9,602	11,944	11,540

Verbal complaint or inquiry: Complaint or inquiry usually received over the telephone.

Written complaint or inquiry: Complaint or inquiry received by note or letter with signature of client.

Resolution facilitated/referral given/inquiry made: Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.

No action possible: No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the client is anonymous, or it is beyond our capacity to facilitate a resolution.

Discontinued by Ombudsman or client: The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the client does not wish to pursue the matter further for various reasons.

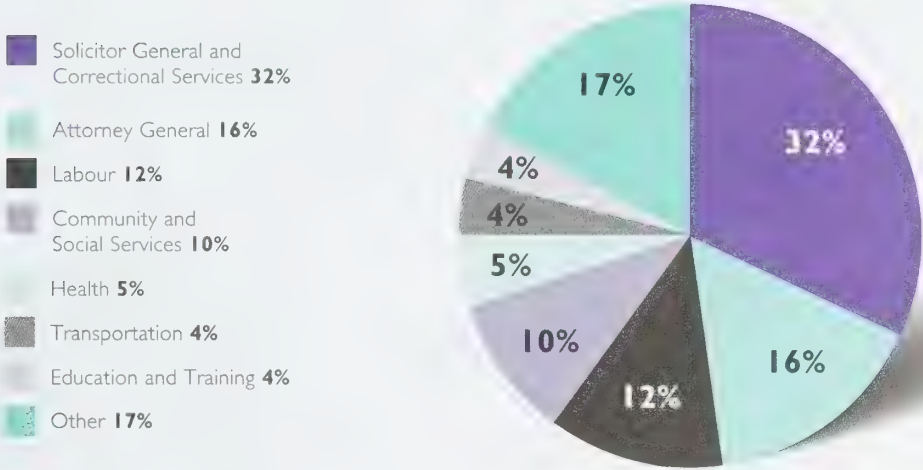
Resolved by Ombudsman in favour of client: The complaint is supported in favour of the client.

Resolved by Ombudsman in favour of the government: The complaint was not supported. In some cases suggestions for change of policy or systems are recommended to the governmental organization.

Resolved by other means: The complaint is resolved with minimal involvement of the Ombudsman.

WRITTEN COMPLAINTS AND INQUIRIES

Provincial Government Organizations



IN ORDER OF FREQUENCY, THE MOST COMMON TYPES OF JURISDICTIONAL COMPLAINTS INVESTIGATED BY OMBUDSMAN ONTARIO THIS YEAR WERE:

Types of Complaints		Rank Previous Year
1	Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence	2
2	Adverse impact or discriminatory consequence of a decision or policy on an individual or group	1
3	Failure of governmental organization to adhere to own processes, guidelines or policies or to apply them in a consistent manner	4
4	Inadequate or improper investigation was conducted	3
5	Denial of service	5
6	Insufficient reasons for a decision or no reasons given	11
7	Unreasonable delay	6
8	Failure to adequately or appropriately communicate with a client	8
9	Unfair settlement imposed; coercion	9
10	Failure to provide sufficient or proper notice	13
11	Harassment by a governmental official; bias; mismanagement; bad faith	7
12	Failure to keep a proper record	12
13	Other	10
14	Omission to monitor or manage an agency for which the governmental organization is responsible	14

SURVEY REVEALS DATA TO SHAPE SERVICE EQUITY

THE OMBUDSMAN attempts to deliver services to the people who are most likely to need them. With this goal in mind we survey our clients in order to get a better idea of who contacts the Ombudsman and how they heard about us. For the past five years we have collected information in a short survey administered by staff members. Client participation is completely voluntary and does not include individuals who are in provincial correctional facilities. The survey collects information about gender, age, race, disability, parental status, First Nations/Aboriginal status and household income.

During the past year, of those clients who responded to our survey, over half were classified as economically disadvantaged. Roughly one third of survey respondents indicated they had a disability and about one fifth reported they are sole support parents. The following information summarizes the pattern of complaints from the perspective of these groups and other categories from our client survey.

Leaving aside complaints against the Solicitor General and Correctional Services from individuals in correctional facilities, three Ministries received the largest number of complaints: the Attorney General; Labour; and

Community and Social Services. Last year (1997-1998) these three Ministries together accounted for 65% of all non-corrections complaints. During this past year the proportion has dropped to 54%, reflecting a wider distribution of complaints in the past year.

Compared to the overall figures for these three ministries a higher proportion of complaints came from some groups: 87% from sole-support parents, 77% from those with disabilities, 71% from people with low income, 69% of women and 63% of First Nations/Aboriginal individuals. These groups were more likely than average to make a complaint against one of the three ministries mentioned above. Among the groups less likely than average to make a complaint against one of these ministries were Racial Minorities (51%), Seniors (37%) and Youth (30%).

A closer look at the complaints against these Ministries and the agencies within them will help explain the larger pattern of complaints.

Ministry of the Attorney General
The Attorney General accounted for just under one quarter (24%) of all complaints in the past year, compared to almost one third (32%) in the previous year. Women made up 61% of these complaints compared to 39% men. More than half of all clients identified as sole support parents (55%) made their complaint against the Attorney General.

The high proportion of women and sole support parents is explained by the presence of the Family Responsibility Office (FRO) in the Ministry of the Attorney General. The FRO received 19% of all complaints during the past year, down from 28% in the previous year but still more than any other provincial government agency. Perhaps



not surprising, more than 90% of women who complained about the Attorney General and 97% of sole support parents were making a complaint about the Family Responsibility office.

During the past year complaints against the Family Responsibility Office made up 18% of all complaints from First Nations/Aboriginal individuals, down from 26% in the previous year.

Ministry of Labour

Complaints against the Ministry of Labour accounted for 18% of all non-corrections complaints in the past year, compared to 19% in the previous year. Individuals reporting a disability made up 44% of all complaints, up from 38% in the previous year. Two-thirds of the complaints against the Ministry of Labour came from men (67%) and one third from women (33%). Within the Ministry of Labour, the Workplace Safety and Insurance Board is the provincial agency receiving the second largest number of complaints, 13% in this past and the previous year. Almost half of these complaints in the past year (48%) were from people with disabilities, up slightly from 44% the year before.

Ministry of Community and Social Services

Reflecting the same pattern as the Ministry of Labour, the total number of complaints against the Ministry of Community and Social Services (MCSS) dropped somewhat during the past year, but accounted for the same proportion (14%) of complaints in both years. Individuals with a disability comprised 41% of complaints to the Ministry, representing a slight increase from 38% in the previous year. Close to one quarter of all complaints from First Nations/Aboriginal individuals (23%) were directed at MCSS, the same percentage as the previous year. The Family Benefits Office accounted

for 7% of complaints in the past year, almost the same as the 6% recorded in the previous year. These complaints were comprised of a high proportion of women (59%), individuals with disabilities (40%) and people with low income (61%).

Other Highlights

Complaints from youth (under 24) increased very slightly, comprising 2% of all clients who responded to survey questions. The largest proportion of complaints from youth were directed at the Ministry of Education and Training, with 33% compared to 43% in the previous year. In both years, over 75% of these complaints were directed at the Student Awards office.

The total number of complaints from racial minorities and people of colour rose slightly in the past year representing 3% of the total. The highest proportion of complaints from these groups (19%) was directed at the Ministry of Labour, a slight decrease from the previous year (20%).

Complaints against provincial agencies from First Nations/Aboriginal individuals declined to 2% in the past year from 3% in the previous year. A large part of this decline was in the lower number of complaints against the Family Responsibility Office.

The number of complaints from seniors (over age 64) followed the larger overall pattern of a slight decline. During the past year complaints from this group were most frequently directed at the Attorney General, followed by the Ministry of Health. Complaints were at roughly the same level in the past year as in the previous year.

Ombudsman Ontario will continue to use the client data survey to gather essential information to help us achieve our goal of delivering equitable services to the people of Ontario.

WRITTEN COMPLAINTS AND INQUIRIES BY PROVINCIAL RIDINGS

Riding	Fiscal Year			Riding	Fiscal Year			Riding	Fiscal Year			Riding	Fiscal Year		
	98-99	97-98	96-97		98-99	97-98	96-97		98-99	97-98	96-97		98-99	97-98	96-97
Algoma	208	220	227	Halton North	19	7	7	Nipissing	285	200	204	Simcoe East	83	59	57
Algoma – Manitoulin	87	67	97	Hamilton Centre	102	27	11	Norfolk	48	29	37	Simcoe West	47	29	18
Beaches – Woodbine	37	30	15	Hamilton East	33	15	13	Northumberland	84	73	70	St. Andrew – St. Patrick	27	34	32
Brampton North	39	8	26	Hamilton General Area	36	11	22	Oakville South	43	26	18	St. Catharines	40	52	24
Brampton South	167	106	116	Hamilton Mountain	22	12	9	Oakwood	19	8	17	St. Catharines – Brock	15	11	11
Brant – Haldimand	21	19	17	Hamilton West	162	176	148	Oriole	11	12	4	St. George – St. David	68	68	3
Brantford	134	126	113	Hastings – Peterborough	57	38	25	Oshawa	43	26	21	Stormont Dundas Glengarry and E. Grenville	48	84	31
Bruce	77	77	80	High Park – Swansea	28	20	25	Oshawa General Area	15	3	3	Sudbury	170	240	193
Burlington South	31	25	24	Huron	36	55	54	Ottawa Centre	86	57	45	Sudbury East	94	82	102
Cambridge	56	62	49	Kenora	161	335	345	Ottawa East	57	49	73	Sudbury General Area	21	0	0
Carleton	124	118	97	Kingston & Islands	117	100	81	Ottawa General Area	91	30	49	Thunder Bay General Area	84	31	4
Carleton East	223	155	240	Kitchener	75	62	68	Ottawa South	41	45	47	Timiskaming	104	98	83
Chatham – Kent	171	180	123	Kitchener General Area	8	5	2	Ottawa West	41	45	24	Toronto General Area	333	99	128
Cochrane North	105	117	95	Kitchener – Wilmont	30	56	44	Ottawa – Rideau	28	22	24	Victoria – Haliburton	57	26	30
Cochrane South	207	206	269	Lake Nipigon	35	55	69	Out Of Province/ International	237	254	187	Waterloo North	46	31	30
Cornwall	43	35	17	Lambton	59	63	52	Oxford	34	48	47	Welland – Thorold	108	78	79
Don Mills	49	22	32	Lanark – Renfrew	62	67	70	Parkdale	21	14	19	Wellington	94	17	8
Dovercourt	34	27	28	Lawrence	8	7	15	Parry Sound	85	94	116	Wentworth East	15	14	15
Downsview	29	16	10	Leeds – Grenville	90	71	84	Perth	62	49	47	Wentworth North	16	8	13
Dufferin Peel	26	27	15	Lincoln	29	23	21	Peterborough	343	227	255	Willowdale	38	24	15
Durham Centre	19	11	10	London Centre	122	123	127	Port Arthur	145	221	314	Wilson Heights	19	14	4
Durham East	46	24	21	London General Area	51	17	8	Prescott – Russell	42	48	82	Windsor General Area	50	26	16
Durham West	76	58	96	London North	58	93	103	Prince Edward – Lennox–South Hastings	99	86	108	Windsor – Riverside	58	199	126
Durham – York	39	35	26	London South	202	235	279	Quinte	143	38	34	Windsor – Sandwich	146	281	264
Eglinton	28	19	19	Markham	26	20	20	Rainy River	34	101	96	Windsor – Walkerville	35	176	160
Elgin	60	58	64	Middlesex	35	44	35	Renfrew North	68	70	90	York Centre	61	40	29
Essex Kent	51	57	108	Mississauga East	30	16	13	Riverdale	136	143	108	York East	14	14	15
Essex South	61	90	80	Mississauga General Area	40	8	16	Sarnia	142	158	113	York MacKenzie	10	14	23
Etobicoke West	30	18	16	Mississauga North	15	19	14	Sault Ste. Marie	491	702	598	York Mills	17	5	9
Etobicoke – Humber	22	13	19	Mississauga South	23	13	11	Scarborough Centre	41	48	50	York South	28	43	17
Etobicoke – Lakeshore	91	63	77	Mississauga West	47	15	18	Scarborough East	39	27	14	Yorkview	15	11	10
Etobicoke – Rexdale	200	156	185	Muskoka – Georgian Bay	104	110	28	Scarborough North	25	7	11	Unknown	66	89	61
Fort William	79	95	84	Nepean	55	39	57	Scarborough West	117	106	156				
Fort York	49	36	39	Niagara Falls	53	26	24	Scarborough – Agincourt	11	11	4				
Frontenac – Addington	75	37	39	Niagara South	42	21	18	Scarborough – Ellesmere	15	15	6				
Grey – Owen Sound	84	120	145	Nickle Belt	43	67	55	Simcoe Centre	133	99	92				
Guelph	276	318	191												
Halton Centre	211	212	176												
												Total	10,796	10,322	10,046

VERBAL AND WRITTEN COMPLAINTS AND INQUIRIES AGAINST THE MINISTRY OF THE SOLICITOR GENERAL AND CORRECTIONAL SERVICES*

By Subject Matter	98-99	97-98	96-97	By Subject Matter	98-99	97-98	96-97
Health Care – Inadequate Or Denied	856	608	661	Glasses, Eye Care	35	20	21
Administration In General	576	210	224	Visiting Privileges	34	40	56
Living Conditions	425	195	244	Inmate Blue Letter/Ombudsman Letter Denied	33	11	22
Staff Conduct	410	383	393	Living Conditions – Smoking	32	15	36
Classification Or Transfer Within The Provincial System	303	398	395	Discretionary Program Decisions/ Access To Program	29	88	78
Living Conditions – Food/Diet	297	167	206	Medical Diet	29	51	48
Personal/Inmate Property	170	139	182	Searches	29	22	31
Yard	144	65	99	Medical Appliance/ Device Request Or Denial	26	42	9
No Response To Request	126	138	101	Charter Of Rights/Human Rights	24	24	30
Dental	126	109	118	Immigration	20	26	23
Inmate Misconduct	124	162	166	Inmate Assault	20	22	3
Living Conditions – Clothing Size Condition Etc.	122	46	79	Pre-Release	16	30	48
Administrative Segregation	109	146	220	Medical Segregation	15	14	19
Living Conditions – Segregation	103	50	57	Resident In Treatment Unit/ Special Needs Unit	15	7	23
Correspondence	89	110	98	Intermittent Sentence	14	17	14
Prescription Request Denied	79	146	113	Protective Custody	13	12	18
Living Conditions – Canteen Allowance Program	78	267	119	Transfer – Federal Institution	10	10	16
Staff Misconduct – Assault	77	45	65	Electronic Monitoring	10	4	16
Temporary Absence Pass	75	112	161	Freedom Of Information/Protection Of Privacy	9	21	21
Inmate Trust Account	73	44	50	Meals At Court	8	2	0
Policy/Practice	66	63	35	Restructuring	8	0	0
Classification – Other	62	134	108	Second Opinion Denied	7	7	13
Telephone Access/Use	61	59	48	Bailiffs	7	3	1
Living Conditions – HVA, Heating, Ventilation, Air	58	41	62	Probation	5	10	7
Lost Earned Remission Punitive Segregation	57	57	29	Access To Services (Technology) – TTY	5	0	0
Living Conditions – Overcrowding	57	38	50	Custody Review Board/Y.O. Avenues Of Appeal	3	1	0
Parole	56	56	81	Aids, Hepatitis	2	6	4
Institutional Discipline – Other Than Inmate Misconduct	52	35	14	Inmate Institution Guide	2	0	0
Methadone Program	49	1	0	Secure Facility	2	6	0
Mental Health Care	44	35	37	Open Facility	2	3	2
Religious Or Life Style Diet	44	32	36	French Language Services	1	5	24
Committal/Sentence Calculation	38	52	56	Reprisal For Contact With Ombudsman Ontario	1	0	0
				Lieutenant – Governor's Warrant	0	3	0

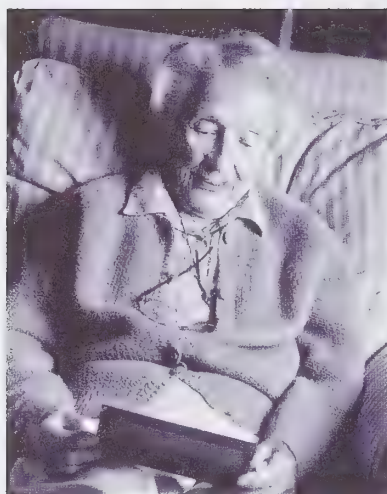
* As any given complaint may have multiple subject categories assigned to it, these numbers do not reflect the total number of complaints.

WRITTEN COMPLAINTS AND INQUIRIES AGAINST PROVINCIAL GOVERNMENT ORGANIZATIONS BY FINAL RESOLUTION

Organization	Complaint resolved by Ombudsman in favour of:				Investigation Discontinued		Resolution Facilitated/ Referral Given/ Inquiry Made	No Action Possible	Total
	Client	Gov't Org.	Gov't Org. with Suggest	By Other Means	By Client	By Omb.			
Management Board Secretariat									
Civil Service Commission							2		2
Management Board Secretariat						5	16	4	25
Ontario Pension Board							9		9
Ontario Realty Corporation							5		5
Minister Responsible For Francophone Affairs									
Francophone Affairs – Other							1		1
Minister Responsible For Native Affairs									
Native Affairs – Other						1	2		3
Minister Responsible For Senior Citizens Affairs									
Senior Citizens Affairs – Other							1		1
Minister Responsible For Women's Issues									
Women's Issues – Other							1		1
Ministry Of Agriculture, Food And Rural Affairs									
Agricorp							1		1
Crop Insurance Arbitration Board Of Ontario		1							1
Ontario Drainage Tribunal						2	1		3
Agriculture, Food And Rural Affairs – Other	1				1	1	7		10
Ministry Of Citizenship, Culture And Recreation									
Ontario Heritage Foundation								2	2
Ontario Human Rights Commission	10	5	2	1	3	36	93	18	168
Ontario Science Centre							2		2
Citizenship, Culture And Recreation – Other						1	2	1	4
Ministry Of Community And Social Services									
Adoption Disclosure Register	1					1	5		7
Comsoc Young Offenders Open Custody/ Detention Facilities – Other						1	1		2
Comsoc Young Offenders Secure Custody/ Detention Facilities – Other							1		1
Developmental Services Branch							2		2
Family Benefits	3			1	2	11	429	11	457
Juvenile Group Homes							1		1
Office Of Child And Family Service Advocacy							1		1
Ontario Disability Support Program	1					3	152	1	157
Ottawa Observation And Detention Home							1		1
Rideau Regional Centre	1				1		2		4
Social Assistance Review Board	3				3	11	55	5	77
Social Benefits Tribunal							7		7
Southwestern Regional Centre							3		3
Syl Apps Youth Centre					1	1	1		3
Thistletown Regional Centre					1	4		1	6
Toronto Observation And Detention Home							1		1
Community And Social Services – Other	3	11			5	16	204	13	252
Ministry Of Consumer And Commercial Relations									
Alcohol And Gaming Commission Of Ontario	2			1		1	14		18
Board Of Funeral Services							1		1
Business Practices Division							1		1
Commercial Registration Appeal Tribunal						4	3		7
Liquor Control Board Of Ontario						1	1	1	3
Ontario Racing Commission							2		2
Registrar General							44	1	45
Consumer And Commercial Relations – Other	2	1			2	5	47	1	58
Ministry Of Economic Development, Trade And Tourism									
Ontario Lottery Corporation						1	7	1	9
St. Lawrence Parks Commission							1		1
Economic Development, Trade And Tourism – Other					1	1	5	1	8
Ministry Of Education And Training									
Colleges Of Applied Arts And Technology			1			4	23	1	29
Ontario Student Awards Program	1			1	2	4	200	6	214
Ontario Teachers' Pension Plan Board							3		3
Education And Training – Other	1	1			1	3	58	5	69
Ministry Of Energy, Science And Technology									
Ontario Energy Board							3		3
Ontario Hydro		1				9	85	2	97
Ministry Of Environment									
Environmental Appeal Board							1		1
Environmental Assessment Board							1		1
Environment – Other		2			2	7	41	2	54
Ministry Of Finance									
Financial Services Commission Of Ontario							8		8
Land Transfer Tax							2		2
Motor Vehicle Accident Claims Fund							11		11
Ontario Insurance Commission		2				8	12		22
Ontario Securities Commission		1			1		4		6
Pension Commission Of Ontario						2	16		18
Property Assessment Program						1	4	1	6
Retail Sales Tax	3			1		2	11		17
Superintendent Of Deposit Institutions							1		1
Finance – Other	1			1		2	55	1	60

WRITTEN COMPLAINTS AND INQUIRIES AGAINST PROVINCIAL GOVERNMENT ORGANIZATIONS BY FINAL RESOLUTION (continued)

Organization	Complaint resolved by Ombudsman in favour of:				Investigation Discontinued		Resolution Facilitated Referral Given/ Inquiry Made	No Action Possible	Total
	Client	Gov't Org.	Gov't Org. with Suggest	By Other Means	By Client	By Omb.			
Ministry Of Health									
Assistive Devices Program/Branch	1						22		23
Health Professions Board	1					5	14	1	21
Health Services Appeal Board			1			1	8		10
Long Term Care Branch							4		4
Mental Health Centres						1	26		27
Northern Health Travel Grant						1	24	1	26
Ontario Health Insurance Plan	1					1	77		79
Psychiatric Hospitals				1	1	6	54	4	66
Psychiatric Patient Advocates							13		13
Psychiatric Review Boards							1		1
Trillium Drug Program						2	21	1	24
Health – Other	4	1			2	14	110	28	159
Ministry Of Labour									
Employment Practices Branch		1				6	42		49
Grievance Settlement Board						1	4		5
Office Of The Worker Adviser						1	14		15
Ontario Labour Relations Board	1	1	1			13	10	2	28
Workplace Safety And Insurance Appeals Tribunal	6	10	1		8	73	84	4	186
Workplace Safety And Insurance Board	4		2	1	1	15	818	22	863
Labour – Other	1					3	31		35
Ministry Of Municipal Affairs And Housing									
Building Code Commission							1		1
Local Housing Authorities	1		1		1	11	97	5	116
Ontario Housing Corporation						1	3		4
Ontario Municipal Board		1				9	13	1	24
Ontario Municipal Employees Retirement Board						3	1		4
Ontario Rental Housing Tribunal						4	32	2	38
Rent Control Programs		4				2	9	1	16
Rent Review Hearings Board						2	1		3
Municipal Affairs And Housing – Other	2	1				7	23	2	35
Ministry Of Natural Resources									
Moose Allocation Advisory Committee						1			1
Niagara Escarpment Commission						1	2		3
Natural Resources – Other	1	5	1		4	25	92	8	136
Ministry Of Northern Development And Mines									
Ontario Northland Transportation Commission									
Northern Development And Mines – Other									
Ministry Of The Attorney General									
Assessment Review Board				1	1		9		11
Children's Lawyer							9	2	11
Criminal Injuries Compensation Board	2					2	18	1	23
Crown Attorneys							6		6
Family Responsibility Office	25	4		2	5	27	1509	26	1598
Metfords (Metro Toronto Forensic Service)							2		2
Public Guardian And Trustee	1					7	79	3	90
Attorney General – Other	2					4	41	3	50
Ministry Of The Solicitor General And Correctional Services									
Animal Care Review Board					1				1
Boards Of Commissioners Of Police							1		1
Coroners' Office							4		4
Office Of The Fire Marshal			2				1		3
Ontario Board Of Parole					2	2	3		7
Ontario Civilian Commission On Police Services (Formerly O.P.C.)							4		4
Ontario Provincial Police		1	1				18	1	21
Probation And Parole Services					1	1	5		7
Solicitor General And Correctional Services – Other	3				9	16	41	6	76
Correctional Centres	22			37	173	149	512	42	935
Detention Centres	38			24	292	133	713	59	1259
Jails	22			38	252	110	491	57	970
Young Offender Centres	3			1	26	23	38	2	93
Young Offenders Open Custody/Detention Facilities	1				16	23	23	1	64
Young Offenders Secure Custody/Detention Facilities					1	2	3	1	7
Ministry Of Transportation									
Licence Suspension Appeal Board						2	2		4
Ontario Highway Transport Board						1			1
Transportation – Other	7	6			2	31	365	11	422
Ontario Government – Other									
Cabinet Office							6	1	7
Commission On Election Finances							1		1
Information And Privacy Commissioner – Other							3	1	4
Legislative Offices – Other							2		2
Office Of The Premier & Cabinet Office							1		1
Ontario Government – Other							7	3	10



"THE PEOPLE WHO COME TO MY OFFICE DO NOT SEE THEMSELVES AS CUSTOMERS,
OR AS SHAREHOLDERS."

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- *Formal Investigation Findings*
- *Non-support and Various Outcomes*
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Every year *in our* **annual**
report the Ombudsman presents a
collection *of case stories*
 to illustrate **the type of work we do.**

OMBUDSMAN CALLS FOR PUBLIC INQUIRY INTO SHOOTING DEATH OF DUDLEY GEORGE

IN DECEMBER last year the Ombudsman received a written complaint concerning the shooting death in 1995 of Mr. Dudley George by an Ontario Provincial Police Officer at Ipperwash Provincial Park. This complaint made a number of allegations concerning actions by government officials and requested an investigation into these matters by the Ombudsman. The Ombudsman responded to this complaint by indicating that the complainant party, while concerned, did not meet the test as set out in Section 14 of the *Ombudsman Act* of

being affected “in his, her or its personal capacity” by the subject of the complaint. As a result of this restriction and the limitations on the Ombudsman’s mandate, she was not able to investigate the allegations raised in the complaint.

The Ombudsman did, however, initiate an investigation on her own motion into a specific allegation regarding the Ontario Native Affairs Secretariat and its conduct in response to the occupation of Ipperwash Provincial Park by a group of First Nations protesters in September 1995. A concern had been raised publicly in the Legislature and elsewhere that a change in government policy had been approved by the Interministerial Committee on Aboriginal Emergencies, and that the Native Affairs Secretariat

had failed to follow its established practice of advising the First Nations concerned of this policy change.

In a letter to the Secretary for Native Affairs at the Ministry of the Attorney General in January of this year, the Ombudsman indicated that while she would not be investigating the matter further as a result of her limited jurisdiction on the issues involved, in her view the most appropriate forum to address these matters would be a public inquiry convened under the *Public Inquiries Act*. The Ombudsman stated that the information she gathered in her investigation raised a number of serious and complex issues, many of which were beyond the scope of her authority to investigate. She expressed her concern that there is no existing body to which referrals may be made with the authority to conduct a thorough inquiry and to make recommendations on the issues raised by individuals contacting her office. She suggested that a public inquiry should be given the necessary authority and access to

information to address issues beyond the jurisdiction of the Ombudsman. She also expressed her hope that there will be answers in the near future to the many outstanding questions raised by Mr. George's death.

HUMAN RIGHTS COMMISSION LOSES FILES

OVER THE COURSE of a number of months, the Ontario Human Rights Commission informed the Ombudsman that it had lost, misplaced or was unable to locate files in a number of cases under review or being investigated by the Ombudsman. The Commission attributed the losses to flood damage at its Provincial Records Centre, technical problems with its information systems and the amalgamation of files from regional offices. In some cases, the Commission had been unable to provide any explanation for the loss. The Ombudsman wrote to the Chief Commissioner noting her concerns. In the absence of a reply, she then initiated an investigation of the Commission's file and record-management procedures on her own motion.

The Ombudsman's investigation found that the Commission had failed to act when it was informed by its own staff in January 1996 of problems with its file and record-management procedures. The Commission reported to the Ombudsman that while file boxes at Toronto-area regional offices were checked to make sure they contained the correct closed files, Commission staff continued to have access to those files, sometimes for many months

before the files were sent to the Provincial Records Centre for storage. Commission staff acknowledged that this was likely one way in which files were lost or misplaced.

The Ombudsman found that the Commission did not have an adequate process to ensure that files that were sent to the Provincial Records Centre were complete. Frequent changes in the file-numbering system prior to the introduction of the current case-management system also appeared to have caused difficulty in keeping track of the location of individual files. The Commission informed the Ombudsman that it had conducted a thorough search of all its offices, including a search at the Provincial Records Centre, in an attempt to locate the known lost files. Although Commission staff had initially reported flood damage as a reason why files may have been misplaced, a report prepared following the search of the Records Centre made no mention of lost or misplaced files being attributed to flood damage.

The Ombudsman's investigation found that staff responsible for preparing closed files to be sent to the Provincial Records Centre had not been provided any training for this task and the existing system of file administration did not include operational policies and guidelines. While the Commission advised the Ombudsman it was putting in place new procedures, it only became aware that certain files had gone missing when the Ombudsman requested them as part of an investigation. The Ombudsman indicated to the Commission that a number of her investigations had been

negatively affected by a difficulty in establishing the facts without a review of the Commission's complete file. The number of lost files was of particular concern given that the Ombudsman was only aware of these cases because members of the public had filed a complaint, suggesting that there may be any number of other files unaccounted for.

The Commission responded to the Ombudsman's concerns by advising that the files that the problems with lost files could be traced to one particular office of the Commission, noting that it followed the provincial file and record-keeping policies and procedures found on the Province of Ontario website. However, the Commission agreed that proper record-management procedures are essential to its operation, and indicated that it would ensure its staff were informed of their responsibilities.

The Ombudsman also reported to the Commission her concerns with the information provided by the Commission during the course of this investigation. The Commission had offered different explanations at different times as to the reasons why files could not be located, whether file and record-keeping policies and procedures were actually in place, and whether the Commission had a central file room in Toronto. The Ombudsman found that the generic information relating to file and record keeping procedures found on the Internet did not provide the detailed direction necessary for the proper care and control of the Commission's files. In this regard, the Ombudsman's investigation did not find that the staff of the Commission were aware of the

significance the Commission places on the information available on the province's website, and noted it was unclear as to how helpful this information would be to staff in carrying out their day to day file and record-management functions. In response to the Ombudsman, the Commission agreed to develop specific file and record-keeping policies and procedures and to conduct training relating to file and record-keeping. The Ombudsman continues to monitor the progress of the Commission to address the problems identified in the investigation.

INVOLUNTARY TRANSFER OF INMATES INVESTIGATED

A CANTEEN Allowance Program (CAP) was introduced in the provincial correctional system in January, 1989. On October 1, 1997, the government eliminated the allowance program and this decision prompted inmates from across the province to complain to the Ombudsman. At three correctional institutions, inmates stopped working to protest the discontinuation of the canteen allowance.

In her 1997/98 Annual Report, the Ombudsman reported the results of an investigation into the effects of this decision on the inmates and young offender population, where she found the implementation by the Ministry of the Solicitor General and Correctional Services of its planning had been inadequate. The Ombudsman found there was a discrepancy in the quality of the hygiene products provided free of charge to inmates and an inconsistent

availability of culturally appropriate products for inmates and young offenders of colour. The Ombudsman reported that the Ministry's prior consultation with institutional staff was limited and that individual facilities were left on their own to deal with a situation where the removal of the CAP resulted in increased complaints, internal tension and unrest, ultimately culminating in a work stoppage at three facilities. At two of these facilities the work stoppage lasted a few days. At the third it continued for approximately ten days, at which time the Institutional Crisis Intervention Team (ICIT) was brought in to assist the institution in transferring 121 inmates to 14 maximum security institutions across the province on October 11, 1997.

The Ombudsman received numerous complaints from the inmates affected by this involuntary transfer. These inmates complained about the manner in which they were treated during the transfer process, alleging that it was a humiliating experience. Complaints were received about the impact of the transfer on inmate medical treatment, programming, and parole hearings. Many inmates complained that the transfer decision was unreasonable and that they were not given an opportunity to deal with institutional charges brought against them through the misconduct process. Complaints were also made about lost personal property and delays in reclassification and notification of relatives following the transfers. Ombudsman staff addressed many of these complaints, including those relating to loss of property and continuity of

medical care, on an individual basis through informal inquiries. However, because of the volume and diversity of complaints received, the Ombudsman decided to investigate the matter on her own motion, focusing on the planning and conduct of the inmate transfers.

In a tentative report of this investigation issued to the Ministry, the Ombudsman found that the Ministry did not have a policy regarding minimum clothing to be provided to inmates during operations of this nature. Although the Ministry indicated that the weather during the operation was unseasonably warm, inmates were required to sit on concrete floors wearing only underwear for extended periods of time. The Ombudsman found that the containing and transferring of inmates wearing only underwear was an extreme measure and one that seriously affected the dignity of inmates.

The Ombudsman received varying reports as to the conditions and circumstances that prevailed during the transfer operation. Her report noted that it was difficult to verify what actually occurred with any certainty and expressed support for a recommendation made in a report by the Ministry's Special Investigator that videotapes be made whenever ICIT activations occur. Videotaping operations such as mass transfers would be of assistance in confirming what actually transpired and whether the operation was conducted appropriately.

The Ombudsman found that many inmates had to wait several hours during the transfer operation before they were fed. As a result, she suggested to the

Ministry that in planning for such a large-scale operation, it should ensure the adequate provision of meals for those affected. The Ombudsman noted that in this case the transfer took longer than expected due to the large number of inmates transferred.

The Ombudsman noted that there appeared to have been some confusion between the institution's staff and the inmates regarding the elimination of CAP and the revised list of free-issue hygiene products (e.g., toothpaste, soap, shampoo, etc.), despite instructions to staff to post notices regarding the changes. There also appeared to be a communication problem relating to the issuing of misconducts to inmates. One Deputy Superintendent advised inmates that misconducts would not be issued, but this information was not conveyed to all correctional staff, and this appears to have resulted in increased tension and uncertainty among both inmates and correctional staff. The Ombudsman suggested the Ministry should ensure that there is consistent institutional communication regarding misconduct practices during incidents such as work stoppages.

There also appeared to be confusion regarding the transfer and reclassification procedures to be followed by the receiving institutions, as well as the procedures to be followed regarding the notification of relatives and friends of inmates who had been transferred. The Ombudsman suggested the Ministry ensure that clear procedures for reclassification and notification of relatives and friends of inmates are in place and are clearly communicated

to the field in advance of the mass transfers.

As noted in the Ministry's Special Investigator's report, inmates were moved to a higher security facility but were not provided with the appropriate Notice to Inmate of Involuntary Transfer, nor were they advised they would have an opportunity to provide a response. The Ombudsman suggested that the Ministry ensure its existing policy is applied in this regard.

The Ombudsman also found that in a number of the individual cases reviewed, misconducts were not properly issued to inmates for refusing to return to school or work. In some cases misconducts were not issued at all or were not processed accurately, and many inmates were left with no opportunity to have their alleged misconduct formally adjudicated. The Ombudsman suggested the Ministry ensure that when inmates are transferred on the basis of behaviour amounting to misconduct, the appropriate misconduct process is followed.

In response to the conclusions and recommendations in the Ombudsman's tentative report, the Ministry advised that it would prepare an interim directive for the provision of adequate clothing, meals and communication plans relating to large-scale inmate transfers. It would also revise its emergency response plans to include minimum clothing standards, meal provision and communication plans for correctional staff. The Ministry agreed that the policy regarding the involuntary transfer of inmates will be addressed in the planning of large-scale transfers. As

well, the Ministry will communicate both verbally and in writing with institutional staff concerning the procedures to be followed in the reclassification of inmates and the notification of friends and relatives. It will also take steps to ensure that the misconduct process is appropriately followed in future. The Ombudsman is continuing to monitor the Ministry's progress with these initiatives.

WORKPLACE APPEALS TRIBUNAL COMMITS TO IMPROVE

IN JANUARY 1999, the Ombudsman notified the Workplace Safety and Insurance Appeals Tribunal of her intention to investigate on her own motion the timeliness of the Tribunal's appeal process. This investigation followed a report issued in March 1998 in which the Ombudsman concluded that the Tribunal's omission to process appeals in a timely manner was unreasonable. At that time, the Ombudsman reported she would continue to monitor the timeliness of the Tribunal's appeals process. The current investigation was prompted by the Ombudsman having received 33 complaints up to the end of 1998 concerning delay at the Tribunal.

The results of this investigation show that while the Tribunal has taken some steps to address the undertakings made one year ago in response to the Ombudsman's recommendations, these have not been sufficient to allow it to process appeals in a timely manner. While the median processing time for

appeals had improved, the caseload of the Tribunal appeared to be aging significantly. The number of cases between one and two years of age increased by over 1,000 in 1998, and the cases of two years of age or more doubled in the same period. Although there was a decrease in the median processing time for stages in the appeal process, it was still in excess of 400 days for 1998.

The Tribunal advised the Ombudsman that it had requested and was provided with additional operating funds for 1998 and as a result, staffing levels and the roster of adjudicators increased. The Tribunal also reported it has requested additional resources for the current year. The Tribunal indicated a number of initiatives were being taken to address its caseload, including the Ministry of Labour's review of the workplace insurance system as a whole, a possible "blitz" of the current waiting list of appeals, and potential efficiencies that may be achieved through other administrative changes.

Despite plans to achieve greater efficiency, it appeared to the Ombudsman that the Tribunal continues to be in a position where it is failing to process appeals in a timely manner. In a tentative report the Ombudsman noted that the Tribunal is not in a position to improve its performance on its own, and that the Ministry of Labour is responsible for ensuring it has the capability and resources to function as an efficient appeal body. The Ombudsman recommended the Ministry should urgently address the issue of the Tribunal's ability

to provide timely service to the public and provide additional support to enable it to actively fulfill its mandate. On the basis of the evidence gathered during the Ombudsman's investigation, she concluded that the Tribunal's continuing omission to process appeals in a timely manner was unreasonable and recommended the Tribunal take all necessary steps, including requesting additional resources, to ensure it is able to process appeals in a timely manner. The Ombudsman also recommended the Ministry of Labour urgently address the continuing omission of the Tribunal to process appeals in a timely manner, and take the necessary steps to ensure the Tribunal has the resources and capability to fulfill its mandate effectively.

The Ombudsman held a meeting with the Deputy Minister of Labour and the Chair of the Tribunal at their request to review the tentative report's conclusion and recommendations. Further initiatives to be undertaken by both the Ministry and the Tribunal were outlined, including a commitment from the Ministry that additional resources will be provided to the Tribunal. The meeting also included a representative of the Workplace Safety and Insurance Board and this, in the Ombudsman's view, represented a coordinated effort that was to be welcomed and encouraged. The Ombudsman commented that had such a coordinated effort been put in place one year ago, when she initially provided the Ministry and the Tribunal with her findings, it may not have been necessary to conduct a subsequent investigation of the Tribunal's timeliness.

As a result of these discussions the Ombudsman reported her view that continued steps are needed to ensure the achieving of a timely appeal process and adequate standards of service, but that the commitments made by the Ministry and the Tribunal indicate that further action was not required at this time. The Ombudsman's final report also addressed concerns about the length of time it may take for the Tribunal to reach a full complement of Vice-Chairs and whether those positions would be filled with Vice-Chairs who have experience in the field of workplace safety and insurance. The Ombudsman advised the Ministry and the Tribunal that she would continue to monitor the progress made as a result of the proposed initiatives, and closed the file on that basis.

HEALTH BOARD TO IMPROVE ON DELAY

IN MARCH 1998 the Ombudsman concluded an investigation of the timeliness of the Health Professions Appeal and Review Board's complaint review process. That investigation showed that the Board did not have adequate resources to process complaints review requests in a timely manner. At that time, it was taking 14 to 15 months to review a case and another nine months to issue the decision. The Ministry of Health is responsible for providing the Board with the resources to function as a review body. Because the Ministry and the Board reported a number of steps that had been taken to improve the timeliness of

complaint review requests, the Ombudsman concluded her investigation by noting her intention to continue to monitor the situation.

In January 1999 the Ombudsman received a complaint that it would take 18 to 20 months for a complaint review request to be heard, and this prompted a new investigation. This investigation showed that the Board's inventory of complaint reviews continued to age since March 1998, despite the Board's efforts to reduce its backlog of cases awaiting a review or decision. It also showed that the Board had received more complaint review requests in 1998 than the previous year, and this would likely increase further in 1999 due to recent legislative changes. The Board's budget and staffing had only increased marginally in the current year and the number of Board members remained unchanged since March 1998.



After conducting two investigations into the timeliness of the Board's complaint review process, the Ombudsman concluded in a tentative report that the Board was not in a position to effectively deal with the volume of complaint reviews it is carrying within its existing operating environment. The Ombudsman therefore recommended that the Health Professions Appeal and Review Board should take all necessary steps, including requesting additional resources, to ensure that it is able to process complaint reviews in a timely manner. She also recommended the Ministry of Health urgently address the continuing omission of the Health Professions Appeal and Review Board to process complaint reviews in a timely manner, and the Ministry should take all necessary steps to ensure that the Health Professions Appeal and Review Board is able to process complaint reviews in a timely manner, including providing it with the capability and resources to fulfill its mandate effectively.

The responses provided by the Board and the Ministry to the Ombudsman's tentative report indicated that a number of initiatives had been or would be undertaken to ensure that complaint reviews are processed in a timely manner. In addition, it was noted that additional resources had been made available to the Board, and the Board would likely have a full complement of members by the beginning of May 1999. In view of these responses from the Board and the Ministry, and a commitment by the Ministry to providing the Ombudsman with an

update on the status of the various initiatives in six months' time, the Ombudsman decided that any further investigation of this matter was unnecessary at this time. However, the Ombudsman reported that once the Ministry's status report is received, it would be reviewed to determine what further steps, if any, should be taken.

SARB IMPROVES AND DISSOLVES

IN LAST YEAR'S annual report, the Ombudsman reported on delays on the part of the Social Assistance Review Board of the Ministry of Community and Social Services in processing its appeals. The Ombudsman concluded that an average processing time of seven months was not acceptable, particularly as it affected people who were vulnerable and in need of timely decisions. She also expressed her concern about the fact that appellants and respondents were not advised at the outset about anticipated time frames for processing appeals. She recommended that the Board and the Ministry take all necessary steps, including requesting and providing additional funding, to enable the Board to carry out its function in a timely manner. Her report also recommended that notice be provided regarding expected time frames.

As the Ombudsman continued to have concerns about the processing times at the Board, she initiated a subsequent own-motion investigation in January of 1999. During this

We committed ourselves publicly to

investigation she was advised by the Ministry that it had provided extra funding to the Board this year and was working closely with it to achieve their shared goal of an efficient appeals process. The Board provided information demonstrating it had made significant progress over the past year with respect to the timeliness of its file processing. It is now projecting that all outstanding appeals over six months old will have a hearing scheduled by the end of June, 1999. With respect to the issue of providing notice about processing timeframes, the Board provided the Ombudsman with a draft of the wording which is to be incorporated into the acknowledgement letters sent to the parties.

In view of this information, along with the planned dissolution of the Board later this year pursuant to legislation passed creating a new Social Benefits Tribunal, the Ombudsman determined that further action was not warranted at this time.

Ombudsman wa

WORK INJURY RE-CONSIDERED

MS. B, AN INJURED worker, contacted the Ombudsman with a concern relating to a decision of the Workplace Safety and Insurance Tribunal that denied her appeal for recognition of a back condition caused by her work. The Tribunal had issued an interim decision and sought the assistance of an independent specialist regarding a medical assessment. The specialist reviewed Ms. B's job tasks as a custodian in a school and concluded that the nature of her work had caused her low-back disability. However, in its final decision the Tribunal did not accept this review of the medical evidence and concluded instead there was not anything about the work that might have caused a disablement.

Following an investigation of these events, the Ombudsman issued a report with a tentative recommendation asking the Tribunal to reconsider its decision, as it appeared flawed. The Tribunal's characterization of the independent specialist's opinion as having been made on an "assumption" that Ms. B's work was heavy, was seen by the Ombudsman to be inappropriate as it

was apparent the specialist had rendered his opinion after reviewing the description of the work involved. The Ombudsman also noted that the issue on which the appeal should have been determined was whether the nature and frequency of the duties performed could have significantly contributed to the worker's development of a low-back problem, as distinct from whether the work could be generally characterized as "light" versus "heavy". The Tribunal accepted the Ombudsman's report and recommendation, and advised that it would be assigning the reconsideration request to a new Panel.

COMPENSATION FOR ADMINISTRATIVE DELAY

MS. V APPLIED for Family Benefits while receiving treatment in a mental health facility. All the necessary documents were submitted in support of her application. Four months later, Ms. V asked her MPP to make inquiries on her behalf when she had not received a response. When Ms. V next met with her General Welfare Assistance worker she was asked to complete the same application forms as she had completed ten months earlier.

Ms. V maintained contact with her worker on a regular basis to inquire about the status of her application and provided any information that was required on a timely basis. Sixteen months after she made her original application, Ms. V was advised she was eligible for benefits.

Ms. V then appealed to the Social Assistance Review Board requesting that her benefits be paid retroactively to compensate for the administrative delays in the processing of her application. The Board allowed the appeal and granted the maximum retroactive time allowed under the legislation of four months. Ms. V contacted the Ombudsman and asked for an investigation into the delay in processing her application. Upon receipt of a notice of the Ombudsman's intention to investigate Ms. V's case, the Ministry agreed that the eligibility review date should be changed to reflect the date when all the necessary documents had been made available.

Ms. V identifies herself as a consumer-survivor. She expressed concern that other individuals in her situation may not receive benefits they are entitled to as a result of the delays and administrative problems encountered when applying for benefits. The Ombudsman supported this concern and communicated it to the Ministry. The Ministry responded that many of the problems encountered by Ms. V would be addressed by changes in legislation and the introduction of the Ontario Disability Support Program. The Ministry indicated that a central Medical Advisory Board would be

reviewing medical forms and would use a standardized means of assessing need and limitations. The new legislation also requires staff to conduct a more thorough review of complaints before matters are referred to the new appeal tribunal. This change is intended to identify and remedy problems at an earlier stage, reducing the need for costly and time-consuming appeals before the tribunal.

HUMAN RIGHTS ERRORS COMPENSATED

MS. A CONTACTED the Ombudsman after her request for reconsideration of a decision by the Ontario Human Rights Commission was denied. Ms. A had made a complaint with the Commission that her employment had been terminated for reasons of discrimination. The respondent employer claimed she was given an early retirement package.

When Ms. A accepted a financial package from her employer upon termination, she did so on condition that she could exercise her right to have a human rights complaint heard by the Commission. She wrote a note to this effect on the final settlement documents. The Commission refused to investigate Ms. A's complaint that she had been discriminated against, and determined that she was pursuing her complaint in bad faith following her acceptance of a financial settlement package from her employer.

Following an investigation of Ms. A's complaint against the Commission's ruling, the Ombudsman

found that Ms. A had clearly indicated in accepting the financial settlement that she was not giving up her right to pursue a complaint of discrimination. Furthermore, the employer was fully aware of this conditional acceptance of the settlement. The Ombudsman also found that the facts gathered by the staff of the Commission could not be used to support the decision of the Commission not to investigate Ms. A's complaint. The Ombudsman's investigation concluded that the Commission had not responded to the reasons Ms. A submitted to it in making her request for reconsideration of the original decision. The Ombudsman noted that although there were several references in Commission documents to the wording of the settlement release, a copy of this release could not be located in the Commission's file. The Ombudsman supported Ms. A's contention and recommended to the Commission that she receive financial compensation as a result of its failure to investigate the matter properly, and its decision not to consider whether the case should be heard by a board of inquiry.

In response to the Ombudsman's investigation report, the Commission agreed to compensate Ms. A \$2,000 for its handling of her file and to review its procedures in applying the relevant sections of the Human Rights Code.

be treated according to their social

OHRC APOLOGIZES, COMPENSATES FOR ERRORS

MS. F COMPLAINED to the Ontario Human Rights Commission that she had experienced discrimination at her place of employment. Staff at the Commission did not draft her complaint until approximately seven months after her first contact with the Commission. In the official record of complaint, she was described as an employee, and the appropriate section of the Code was cited. Following the filing of this complaint, the respondent employer noted that Ms. F was in fact self-employed, and as such another section of the Code should have been cited in her complaint. The complaint form was subsequently amended to include the correct section of the Code. But this occurred only after the file had been assigned to an investigator, by which time a period of approximately 15 months had elapsed since the complaint had been served on the employer.

In response to submissions by the employer, the Commission decided to close the file, citing reasons of delay and bad faith in bringing forward the complaint. The Commission then declined Ms. F's request for reconsideration of its decision to close the file on the basis that the respondents would be prejudiced by the delay. The Commission did not include a reference to bad faith in denying Ms. F's request for reconsideration.

Ms. F asked the Ombudsman to investigate the decisions of the

Commission. The Ombudsman issued a report of her investigation which found that the Commission was responsible for failing to process Ms. F's complaint in a timely manner, and was also responsible for not citing the correct reference to the Code in the original drafting of her complaint. The Ombudsman made recommendations in support of the complaint and the Commission responded by agreeing to pay Ms. F financial compensation of \$2,000, along with issuing her a letter of apology for the loss of opportunity in having her human rights complaint properly heard.

OHRC FILE MATERIAL LOST

MR. D FILED a complaint with the Ontario Human Rights Commission against his employer alleging discrimination on the basis of handicap. He later tried to file a further complaint claiming he had suffered reprisals as a result of his initial complaint to the Commission. He was advised by a Human Rights Officer that both complaints could be considered together, as this was the Commission's preferred practice and the reprisal complaint could be filed later if it was not resolved in the course of negotiations. However, when the reprisal complaint was eventually registered and served on the employer approximately 20 months after the events that led to it, the employer asked the Commission to exercise its discretion not to deal with the complaint on the grounds that there had

been an excessive delay. The Commission agreed and decided not to deal with Mr. D's complaint on the grounds that the delay was not considered to have been incurred in good faith, and was excessive when compared to the six months allowed by the Human Rights Code.

Mr. D contacted the Ombudsman, who initiated an investigation but discovered that the Commission's original file was missing and was therefore unavailable for review. This absence of documentation from the original complaint meant that it was not possible to establish conclusively what advice had been given to Mr. D by the Commission and whether this was relevant in considering the time elapsed before Mr. D attempted to file his reprisal complaint. The Ombudsman wrote to express her concerns about how this file had been dealt with. In response, the Commission emphasized there had been nothing to prevent Mr. D from filing his reprisal complaint separately and that he had retained counsel to provide advice on how to proceed. The Commission maintained that it was not possible to determine exactly what had occurred regarding the filing of this complaint.

In view of the missing documents from the original complaint, the Ombudsman concluded that she was unable to accurately assess the Commission's response without essential file material. She indicated that she remained concerned about the fact the Commission appeared to take no responsibility for its handling of the file. However, the Ombudsman also

noted that in the interim, the Commission had implemented specific policies and procedures to address the filing of complaints and that these measures were designed to prevent the recurrence of a similar problem in future. In light of these facts, the file was closed.

ATTENDANCE AT HEARINGS ACCOMMODATED, POLICY CREATED

IN 1992 Mr. B was the victim of an assault which left him with permanent disabilities. He filed an application for compensation under the Compensation for Victims of Crime Act. The Criminal Injuries Compensation Board determined that an oral hearing was required and a date was set for the summer of 1996. During the interval between the filing of his application and the hearing date, Mr. B was incarcerated in an institution for an unrelated matter. As a result, he was unable to attend the oral hearing at the designated location. In addition, his counsel was unable to attend at the time scheduled. They immediately requested that the hearing be rescheduled and held at the institution where Mr. B was incarcerated, or by means of an electronic conference call to enable both of them to attend. The Board, however, decided to defer the hearing until Mr. B was released from custody.

Mr. B complained to the Ombudsman, stating that he and his counsel felt the Board decision was

unreasonable given the length of time he had already waited for a hearing and because it would be some time yet before he was released. The Board's position was that hearings are held several times a year at various locations throughout the province to facilitate attendance by applicants who live far from Toronto. However, it has never been the Board's policy to accommodate individual applicants by attending at specific locations, and in the Board's view, Mr. B's circumstances did not warrant any deviation from existing practice.

The Ombudsman's investigation revealed that the Board does hold hearings by means of electronic telephone calls in certain circumstances. However, there was no written policy at the Board on hearing locations, or on the issue arising from Mr. B's situation. Following the Ombudsman's contact with the Board, a written policy on hearing locations was subsequently established. This policy applies to all applicants including incarcerated individuals who may encounter difficulties with attendance at an oral hearing. As a means of resolving Mr. B's situation, the Board offered him several options to accommodate hearing his application and his complaint to the Ombudsman was thus addressed satisfactorily.

APPLYING POLICY CONSISTENTLY

THE OMBUDSMAN has received numerous complaints over time from inmates in various institutions across the province raising

concerns about the quality, quantity and availability of clothing, as well as the frequency and consistency of clothing changes. As a result, the Ombudsman initiated an investigation of these issues on her own motion. During the course of this system-wide investigation, Ombudsman staff examined nine facilities to review their clothing procedures, and investigated numerous individual cases of complaints related to clothing.



As a result of this investigation, the Ombudsman notified the Ministry of the Solicitor General and Correctional Services that in the majority of situations where inmate clothing was examined during site visits, the quality appeared to be satisfactory. It also appeared that with respect to sizing, in most institutions inmates were being adequately accommodated in relation to their specific needs. The requirement that inmates

be provided with one change of clean outer clothing at minimum of once per week seemed to have been generally met by the institutions reviewed.

However, the Ombudsman also reported that her investigation revealed inconsistencies in the implementation of the Ministry's policy regarding the provision of underwear. This policy requires that as a matter of dignity all adult offenders are to be issued seven pairs of underwear on a weekly basis. In view of her findings, the Ombudsman recommended that the Ministry of the Solicitor General and Correctional Services take all necessary steps to ensure compliance by correctional institutions with Ministry policy.

The Ministry responded by reporting that as a result of recent significant organizational changes in the Correctional Services Division involving staffing and accountability, a greater degree of compliance with Ministry policy would be achieved. The Ministry's Assistant Deputy Minister also provided an undertaking to issue a new Directive related to inmate clothing. The Ombudsman notified the Ministry that she accepted their response to her report and advised that she would continue to monitor this issue.

The following cases represent the complaint was resolved.

OPPRESSIVE FEE STRUCTURE REMOVED

A GROUP advocating for the interests of individuals with mental illnesses requested the Ombudsman investigate the \$200 court filing fee required to appeal decisions of the Ontario Consent and Capacity Board. The group noted that individuals affected by Board decisions are among the most vulnerable persons in our society and the majority cannot afford the fee.

Under mental health legislation, physicians have the authority to determine incapacity to consent to treatment and manage property of individuals, and the Board can review physicians' decisions. Board decisions can be appealed to the Ontario Court, General Division, for a fee of \$200 (increased from \$132 in 1997). Applications to Legal Aid for assistance may take up to a month but there is a seven-day timeline in which to file an appeal.

The group advised that the Chair of the Board had raised the matter with the Attorney General's office, but the issue remained unresolved. The Ombudsman indicated that she cannot investigate the imposition of fees because the *Ombudsman Act* does not

include jurisdiction over deliberations and proceedings of Executive Council and court functions.

In a January 1998 letter the Ombudsman drew the Attorney General's attention to the impact of its fee structure on persons affected by the Board and noted that while a person convicted of a criminal offence may file an appeal without paying a fee, a person incarcerated due to mental illness must pay a fee in order to appeal. In April 1998 the Attorney General wrote to the Ombudsman advising that the matter was being reviewed by the Program Development Branch, Courts Administration Division. Following this review, the Director of the Branch advised the Ombudsman that appeals from decisions of the Board would no longer be subject to a filing fee.

MINISTRY REVISES APPROACH TO CLIENTS

THE OMBUDSMAN was approached by a client who was in receipt of provincial benefits under the then Family Benefits Program, owing to his inability to work. Mr. S complained that he had been banned from two Family Benefits Act offices in his city and could only access the Ministry

by phone or in writing. At the time of his complaint, he had no phone and his Income Maintenance Worker was only available to take calls for a few hours one day a week. Mr. S complained that this amounted to a denial of adequate service. He also believed that staff had behaved in a high-handed manner by initiating the ban in the first place.

When the client's FBA file was reviewed, there was insufficient documentation upon which to assess whether the decision to ban the client was properly made. While there appeared to be some cause for concern, as some of the client's behaviour was problematic, there was no well-established pattern of dangerous or escalating and threatening actions or incidents. In addition, the Ministry's policy regarding documentation of such situations appeared not to have been followed. It also appeared that adequate service had in fact been provided during the year since the ban had been imposed. All clients in the area had access to duty workers, so the complainant could speak to whoever was on the phones when he called in.

During the course of the Ombudsman's investigation, the Income Maintenance Supervisor offered to make her own phone number available, so the client could call in and speak with her directly. The supervisor indicated her intention was to look at whether the ban might be relaxed or removed. However, when our office attempted to provide this as a possible resolution, Mr. S declined the offer. He said he was concerned about being

"set up" if he went back to the office in question. Instead, he focused on why the ban had been effected in the first place and wanted that question and the events leading up to it examined. The Ombudsman decided to discontinue formal investigation of the complaint. This was because the supervisor was offering a reasonable resolution which the client refused to discuss or follow through on.

During the investigation the supervisor had acknowledged that the client's file was lacking in documentation. As a result, the Ombudsman wrote to the Deputy Minister to express concern about the missing file material. She suggested a memo or directive be sent to all Income Maintenance Supervisors reminding them of the need to adequately document incidents involving clients, in accordance with the Ministry's own policy. She also suggested the Ministry consider providing training, both for new and existing front-line staff, to assist in dealing with defusing hostile clients and situations. The Ministry responded by confirming that all staff would be reminded about adequate documentation of problematic incidents. The Ombudsman's suggestion regarding non-violent crisis intervention training for all staff was to be forwarded for implementation to the Ministry's Provincial Training Coordinator.

OMB WETLAND DECISION UPHELD

MR. R IS THE owner of property along the shoreline of Lake

Ontario. He approached the local township to obtain approval to build a house on that property. The township approved a zoning bylaw to allow the house to be built, but the bylaw was appealed to the Ontario Municipal Board (OMB) by the Ministry of Natural Resources (MNR). MNR identified the area of the proposed site of the house as part of a provincially significant wetland. The OMB agreed with MNR and the bylaw was subsequently refused. Mr. R complained to the Ombudsman that MNR had found the property to contain provincially significant wetland only after he first approached authorities about building on the property, and that the Ministry had not provided him information about this evaluation. He also disagreed with the OMB's decision not to allow him to build on the property.

The Ombudsman investigated and found that MNR had evaluated the property before Mr. R had informed any authority about his intention to build on the property. The investigation confirmed that MNR provided the wetland information to Mr. R prior to the OMB hearing and had applied its policies in a fair and consistent manner. In addition, the Ombudsman concluded that the OMB had fairly considered the evidence submitted by Mr. R but based its decision on the information provided by MNR when it recommended that Mr. R's request to build on that part of the property be refused.

A CLAIM ON THE WRONG HIGHWAY

MR. Y, A RESIDENT of Northern Ontario, contacted the Ombudsman because the Ministry of Transportation had refused to reimburse him costs of \$316.25 he had incurred to replace a damaged windshield. Mr. Y complained that his windshield had been damaged when he had driven on Highway 638 because the Ministry had failed to maintain the highway. The Ministry referred Mr. Y to its insurer who denied his claim. An Ombudsman investigator sent a detailed letter outlining the complainant's contentions to the Ministry. When Ministry staff reviewed Mr. Y's file, they concluded that the adjuster for the insurer had gathered incorrect information involving a different highway, and this had led to the denial of the claim. After the Ministry contacted the insurer, the claim was reviewed properly and a cheque in the amount of \$316.25 was issued to Mr. Y.

NOTE-TAKER ASSISTANCE PROVIDED

MR. J COMPLAINED to the Ombudsman that staff at the Workers Safety and Insurance Board were giving him incorrect or conflicting information about his compensation claim, and that his request that he be permitted to audiotape his discussions with Board staff had been refused. Mr. J also advised that he believed he had a learning disability, and he felt this might be interfering with his ability to recall and

comprehend what he was being told by Board staff. After notifying the WSIB of Mr. J's complaint, the Ombudsman was informed that to accommodate Mr. J's concerns, a staff member would act as a note-taker during any meetings about his claim. Mr. J found this proposed initiative was an acceptable solution, and the Ombudsman was able to close the case as resolved.

APPLYING DISCRETION WITH CRITERIA

A GROUP of six employees at the Workplace Safety and Insurance Board (the Board) contended that several policies of the Board with respect to employee compensation and promotions were unreasonable. They maintained they had been adversely affected by these policies and they should accordingly be granted exceptions and awarded salary increases. They also alleged that other employees had been granted exceptions to the policies.

Following an investigation, the Ombudsman did not find that the Board's human resource policies were unreasonable or that exceptions should be made for those who complained, but she did notify the Chief Executive Officer of the Board that the investigation raised a matter of concern. She noted that two of the policies specified how promotional increases would be granted but that discretion was given to senior staff to grant exceptions to the increases set out in the policies. Neither policy, however, set out criteria as to how the discretion to grant exceptions was to be made. The Ombudsman

noted that the absence of clear criteria appeared to have contributed to a perception of unfairness and arbitrariness by the employees who had complained. The Ombudsman informed the Board that where such matters may be decided on a discretionary basis, there must be clear criteria so that the process is not only fair, but is seen by all those affected to be fair. She also noted that such criteria should be applied consistently.

The Ombudsman informed the Board that when staff had provided information concerning the granting of an exception in one case, there was no record justifying this action. It appeared that records had not been properly maintained and this had contributed to the perception of unfairness. In the course of the investigation, the Board issued a new policy for non-bargaining unit employees which allowed for discretion to grant promotional increases. However, this policy included criteria on which such discretionary decisions would be based. The Compensation Branch of the Board was to have a significant role in ensuring the new policy was implemented consistently and fairly. The Ombudsman was satisfied that the new policy appeared to address her concern about discretionary decisions and suggested that the Board maintain proper records to justify any salary increases.

COMPLAINTS POLICY TO BE DRAFTED

MR. A COMPLAINED to the Workers Safety and Insurance Board about the actions of one of its employees and in reply was sent a response signed by the employee complained against. He contacted our



office to complain that this was unreasonable. The Ombudsman notified the WSIB of Mr. A's contention. The WSIB responded by stating that the complaint had been investigated by a different employee from the one complained about. Although the response was drafted and signed by the subject of the complaint, it was reviewed by a vice-president of WSIB, and a follow-up letter from the vice-president was sent to Mr. A.

This response was discussed with the WSIB legal counsel. It was noted

that while the investigation of the complaint may have been carried out by a third party and the response may have been reviewed by the manager of the employee complained against, the complainant would not be aware of this and the perception would be that the complaint was responded to by the very employee complained against, leaving the impression that the complaint was not dealt with objectively. The WSIB's legal counsel advised that it had no internal policy on the handling of complaints from the public about its employees but agreed there would be a benefit in avoiding this type of situation in the future by having such a policy. The counsel advised that such a policy would be drafted to address this issue and it would be forwarded to our office upon completion. The Ombudsman determined this was an adequate resolution of the complaint and closed the file on that basis, advising the complainant and the WSIB that she would monitor the development of the policy.

RE-HEARING THE FULL CASE

MR. G CONTACTED our office concerning his dissatisfaction with a decision of the Workplace Safety and Insurance Appeals Tribunal. He contended that the decision on his case was unreasonable because the Tribunal had failed to take into consideration the report of a Board Pension Assessor which supported his claim that his back disability was related to his compensable accident.

An Ombudsman investigation revealed that in fact the Hearing Panel did not have the report in question when it made its decision, as the report was not in the Case Description that was before the Panel. Our investigation further revealed that this report was in the copy of the file provided to the Tribunal by the Workplace Safety and Insurance Board and should therefore have been included in the Case Description in accordance with Tribunal's Case Description Manual. While it appeared that the report in question was omitted by mistake, the information it contained was critical to Mr. G's case as it was one of the few medical reports which supported his claim. The Ombudsman drew this to the attention of the Tribunal Chair, and the matter was subsequently referred back to the original Hearing Panel as a reconsideration request.

WRONGDOING INVESTIGATED

THE COMPLAINANT approached the Ombudsman after her contract position with a Ministry of Transportation private licence issuing office was terminated. She had reported to the Ministry that in the course of her employment, she had observed questionable actions by co-workers. The most serious of these concerned information provided to her by a colleague who admitted that when the time came to renew her own plate, she would override the system to avoid fines against her licence plate. In the course of the Ministry's investigation of this

The fact is a ~~documentable~~ lack of

information, the complainant's name was released to the licence issuer when Ministry personnel reviewed the allegations of wrongdoing. It was around this time that her employment was terminated. Ms. L complained to the Ombudsman that the Ministry's failure to keep her complaint confidential was unreasonable, and that the Ministry's investigation of her complaint was inadequate. Because the complainant had not been employed by a governmental organization within the Ombudsman's jurisdiction, the issue of the job loss was not investigated.

After reviewing the Ministry's response to the complainant's contentions, the Ombudsman concluded that the Ministry had seriously considered the allegations made by Ms. L and commenced an audit of the licence issuing office. However, the Ombudsman advised the complainant that although the outcome of the audit might be of interest to her, the adequacy of this audit would not affect her in her personal capacity. As it appeared that the Ministry had taken action on her complaint, no further investigation of this aspect of her complaint to the Ombudsman would be necessary or appropriate. With regard to the issue of confidentiality, as a result of discussion with Ombudsman staff, the Ministry extended an apology to the complainant for releasing her name without her agreement. The Ministry also informed the Ombudsman that it would be drafting a communique to all drivers and vehicles managers to advise them of the factors that need to be considered when they receive unsolicited

information about possible fraud or alleged inappropriate activities in issuing offices. The complainant advised the Ombudsman that she was pleased to receive the apology and was gratified that "somebody was listening".

FRO TAKES CORRECTIVE ACTION

MR. K WAS ORDERED by the Court to pay child support through the Family Responsibility Office (FRO) until his youngest child reached 21 in early March 1997. Although Mr. K's child support was fully paid up, the FRO continued to garnishee his wages. He telephoned and wrote, without success, to FRO advising that his child support obligations had ended. In November 1997, Mr. K contacted the Ombudsman to complain about his treatment. An Ombudsman Representative immediately faxed the relevant information to FRO and in early December the FRO took action to close Mr. K's file. While FRO officials admitted to Mr. K that an overpayment had been made, they advised him it was his responsibility to go to court to recover the overpaid money in the amount of \$2,250.

Mr. K had previously spent \$1,000 in legal fees to correct an error made by staff of the then Family Support Plan which had resulted in an overpayment of \$1,750. Mr. K. believed the FRO had failed to adequately carry out its responsibilities, and requested the Ombudsman to investigate the matter further. Following correspondence from the Ombudsman providing

notice of an intention to investigate Mr. K's complaint, the FRO responded by reporting that a cheque for \$2,250 had been issued to Mr. K.

REASONABLE RENTAL POLICY FOLLOWED UP

MR. M WAS a tenant in a seniors apartment complex. He complained to the Ombudsman that his lease specified he was not required to pay Hydro charges in his rent-geared-to-income unit. Following an investigation, the Ombudsman found that the interpretation of the lease agreement by the Ontario Housing Corporation (OHC) that the landlord had to provide certain services such as Hydro but the tenant had to pay for the service, was a reasonable interpretation. The Ombudsman noted that the revised rental agreements were clear with respect to the tenant's duty to pay Hydro charges. However, she suggested that the OHC ensure that all tenants who had signed leases previously be specifically informed about their responsibility for paying for Hydro. The OHC later informed the Ombudsman that her suggestion had been implemented by the holding of tenant information sessions and by having tenants sign new leases.

SPECIAL NEEDS ADDRESSED

MR. B, AN INMATE at a provincial jail, called the Ombudsman to seek assistance in his request for a transfer from the institution. Mr. B has diabetes, has had a leg amputated and wears a prosthetic. He informed us that his institution was not accessible and said that he could not bathe because the shower area was not designed for use by a person with special needs.

Ombudsman staff contacted the jail and were advised that Mr. B was sentenced to remain in the jail for a period of five months and had been accommodated on the main floor to make movement easier. The staff at the Health Care Unit reported that all his health care needs were being met and that a chair had been provided for the inmate in the shower facilities. However, they indicated there were no bars in the shower area to enable the inmate to safely sit and get up from the chair. The jail had never had an inmate

with these needs and had not installed grab bars in the shower area.

The inmate stated that the sentencing Judge had suggested he be placed in a community agency that would meet his needs outside an institution, such as a halfway house. An Ombudsman Representative contacted the inmate's Classification Officer to ask for a review of what the surrounding community agencies had to offer. This would involve looking at access to health care compared to a medical doctor and 3 full time nurses on staff at the jail.

The Classification Officer reported back several options:

- There was a halfway house in the community, but it had a long waiting list.
- The inmate could be released to a Crisis Centre with which the Jail had a contractual agreement.
- Mr. B could also be moved to a correctional institution that would meet all his needs.
- Grab bars had since been approved for the shower facility and if he wanted,

Mr. B could remain at the jail.

The Classification Officer discussed the issue with a medical officer and social worker and arranged a three-way meeting with the inmate to discuss his options. Mr. B expressed a desire to go to the Crisis Centre, but there was no room available. The Classification Officer then proposed another option. He consulted with the Electric Monitoring System Officer to review the viability of releasing the inmate to his own home, which has been adjusted to accommodate his needs. A recommendation was then made to admit the inmate to this system. In the meantime, the jail decided to go ahead with the installation of the grab bars in the shower so that any future inmates with special needs could be accommodated.

DENTAL RELIEF

MR. C CONTACTED the Ombudsman to complain that despite multiple requests to see a dentist, the institution where he was incarcerated and the Ministry of the Solicitor General and Correctional Services had let him suffer with an abscessed tooth for more than half a year. Mr. C complained that he broke a tooth while in custody in March of 1998. He stated that on a number of occasions, the anti-inflammatory medication he had been prescribed had run out, resulting in painful swelling and partial paralysis of his mouth and face. Following an intervention by the Ombudsman's office, a dentist treated Mr. C on November 4, 1998. When the

provide acceptable levels of service,

Ombudsman advised the Ministry of her intention to investigate Mr. C's complaint, the Ministry offered to refer Mr. C's case to its Compassionate Allowance Committee. This Committee had been established to review cases that may qualify for a compassionate allowance as a proper exercise of the prerogative of mercy. Because the Committee's mandate appeared to adequately address Mr. C's concerns, the Ombudsman accepted the Ministry's action on the case as satisfactory.

FUNERAL LEAVE GRANTED

M R . I , A N intermittent inmate serving his sentence on weekends, called our office in some distress. He had applied for a Temporary Absence Permit (TAP) for one weekend in order to attend his mother's funeral and be with his family. He was denied the application but had not been informed of the reason. Mr. I was serving time for driving without a license and indicated he would be happy to serve the missed time at the end of his sentence. He requested the Ombudsman's assistance in having the decision reviewed.

An Ombudsman Representative called the correctional facility Superintendent, who had reviewed the decision of the facilities' TAP co-ordinator and expressed his support for it. He reported that Mr. I had three previous alcohol-related convictions on his record, that his mother's funeral had been held during the week and the request was to attend a memorial service, and that the

inmate had previously been charged with a misconduct for having come into the institution smelling of alcohol. The Superintendent suggested that given the potential risk of the inmate becoming intoxicated and hurting himself or someone else, the institution's position was quite firm.

When Mr. I was advised of this response, he explained that the funeral and memorial service had been combined to give relatives from out of town an opportunity to attend. He offered to present himself at the institution on Saturday evening instead of taking the entire weekend off and said he just wanted to pay his final respects to his mother and to be with his family.

The Ombudsman Representative called the institution again as there seemed to be a possibility of agreement between the two parties, it was suggested they resume talking to see if there were potential arrangements that would be mutually acceptable. The inmate called us a few hours later to report that he had been granted a twenty four hour pass.

MEDICAL ACCESS FOR PREGNANT OFFENDERS

A P R E G N A N T young offender contacted our office upon her release from an open custody facility. She reported that when she entered the facility she was pregnant and had been seen by a doctor who confirmed her pregnancy. One night she was feeling very ill and asked to see a doctor but was told by the staff that she could

contact a medical doctor herself in the morning if she was still feeling unwell. She indicated that although she felt better the next day, she was frightened she was having a miscarriage and felt she should have been able to see a doctor.

Because the policy of the Ministry of the Solicitor General and Correctional Services on pregnant young offenders doesn't directly state that a doctor has to be seen, an Ombudsman Representative contacted the Ministry to request clarification about their practice in this type of situation. The Area Program Coordinator for Youth Services indicated that she would follow up with the facility involved. The Ombudsman subsequently received a copy of a memo that had been sent to all Young Offenders Open Custody Facilities. This memo stated that more specific direction was required to be given to staff in facilities regarding responses to complaints from pregnant young offenders who report being ill while in Open Custody. A report on the issue was also sent to the Young Offender Operations Unit at the regional branch of the Ministry for further follow up.

PHYSICAL DISABILITY ACCOMMODATED

M R . D W A S incarcerated at an Ontario jail. He complained to the Ombudsman that he had difficulties walking and was unable to see the institution's doctor. Mr. D was overweight and had lost the use of one of his legs. The health care staff at his

facility had determined that the average wheelchair could not support Mr. D's weight to take him to the Health Care Unit. The Health Care Coordinator was aware of Mr. D's medical condition, but had only recently noticed the difficulties the complainant was experiencing in walking. Within twenty four hours after the Ombudsman's office contacted the institution, Mr. D was transported to another area in the institution where his health condition could be properly addressed. Because the complainant required regular exercise, the Health Care Coordinator made arrangements to have a special walker ordered. This walker enabled the complainant to maintain some level of mobility and gave him the opportunity to get regular exercise while being treated for his medical condition.

RELIGIOUS PRACTICE ACCOMMODATED

MR. S, A BAPTIZED Sikh, had been asking institutional staff for permission to wear his turban in Ontario's correctional facilities. The turban is a religious article within the Sikh faith designed to cover the head. Following an inquiry by an Ombudsman Representative, the Ministry reported that it had no policy allowing inmates to wear such a religious article. Mr. S's request had not been granted because in the view of institutional staff, the length of the turban could pose a security risk and because of the possibility that the turban could be used for improper purposes. Following a letter of intention from the Ombudsman's office to investigate Mr. S's concerns, the Ministry advised that a draft policy on Sikh religious articles of faith was undergoing review. In the meantime, the Ministry agreed to allow Mr. S to wear his turban prior to finalizing that policy.

\$150.00 to complete his trip. The institution appeared to be adamant about not paying the cost of the cab and seemed indifferent as to how the inmate could manage the balance of the trip. An Ombudsman Representative contacted both the institution and the District Administrator. When reminded of the Ministry's policy to provide travel support for release programs and its responsibility to ensure that an inmate reaches the proper destination, and following a call from the District Administrator to the superintendent, the inmate was granted full transportation costs for his trip.



ALL THE WAY HOME

AN INMATE who was scheduled for release to his home in a remote northern community was told by institution staff that they could only pay for a portion of his journey. The inmate's final destination was Keejic Bay, Ontario. The institution was prepared to pay his way to a point where he would have to take a cab at a cost of

The case stories in this section involve the successful resolution of issues that were initially identified and employed by the staff of Ombudsman Ontario. These cases are a sample of the day-to-day work involving complaints which do not reach the formal investigation stage. In each of these cases, a successful outcome resulted from cooperation with the governmental organization involved which produced benefits for all parties in avoiding a lengthy investigation process.

BUSINESS TAX RE-ASSESSED

M R . T , T H E operator of a used car dealership, came to the Ombudsman in November 1997 with a complaint related to an audit of his firm by the Ministry of Finance in July 1995. As a result of that audit Mr. T had been required to remit to the Ministry \$20,000.00 in provincial sales tax and penalties. A subsequent examination of the provincial audit by Mr. T's accountant revealed what appeared to be a number of discrepancies in the Ministry's calculations. A review of the audit material brought forward to our office supported Mr. T's concerns.

Mr. T admitted he had not taken an appeal concerning the alleged discrepancies to the Ministry within its legislated time frame. He explained that as a newcomer to Canada he did not understand the significance of the time limitation. Mr. T complained that it was not reasonable for the Ministry to refuse to re-examine the issue. He indicated that all he wanted was an opportunity to bring to the Ministry's

attention what he believed were significant errors in the original audit.

We contacted Ministry of Finance officials and outlined the problem as presented to our office by Mr. T. In due course the original audit was re-examined. The Ministry concluded that a number of discrepancies did exist in their original audit. Mr. T was re-assessed and as a result received a refund of \$6000.00.

OVERCOMING A CATCH-22

M S . S C O N T A C T E D Ombudsman Ontario regarding a concern she had with the Family Responsibility Office (FRO). Her ex-partner was several thousand dollars in arrears with his child support payments. Ms. S believed her only chance at securing some of the arrears was for FRO to seize funds held in trust by her lawyer. The funds in trust were the result of the sale of the family home and represented the payor's share of a divorce settlement.

Ms. S's financial situation was quite desperate as she had no source of

income and had a child with a disability to care for. She was ineligible for Ontario Works benefits because she had a leased vehicle: the lease agreement was such that she was unable to break the contract. Time was a major factor in this case as Ms. S's lawyer was obligated to release the funds in trust once the court order was signed.

An Ombudsman Representative contacted FRO to determine if steps could be taken to seize the funds held in trust so that Ms. S could obtain the arrears owed to her. FRO indicated that although the arrears were owed, they were unable to take action to seize the funds until a copy of the new court order was received. The situation had become a catch-22: if the court order was signed and sent to FRO, then the lawyer was legally obligated to release the funds to Ms. S's ex-partner, and in turn the opportunity to obtain the arrears would be lost.

The Ombudsman Representative explained the dire financial circumstances that Ms. S was facing and eventually FRO agreed to take the necessary steps to seize the funds, provided that the lawyer sent FRO a copy of the draft court order. The draft order was provided via fax and the end result was that \$2,991.06 in child support arrears was seized and paid to Ms. S.

FIXING IT WITH A FAX

M S . B , A S E N I O R residing in Northern Ontario, was denied eligibility for a \$2 co-payment under the Ontario Drug Benefits for seniors because of her income level. However,

We have endured tremendous change

Ms. B complained that her income was actually much less than the maximum income allowed but the Ministry was calculating her spouse's income on top of her own pension. Ms. B's spouse had been institutionalized at a nursing home since September 1996 and his entire income was allocated toward nursing home costs. When Ms. B applied for the \$2 co-payment program in March 1997, she had legal involuntary separation forms drawn up and sent to the Ministry, along with her application explaining her spouse's situation. An Ombudsman Representative contacted the Ministry of Health and was advised that if the client could fax the Ministry a copy of the Statement for Involuntary Separation from Old Age Security, the claim would be reviewed the same day. Ms. B did so and her claim was approved less than one week after meeting with the Ombudsman Representative.

BREATHING A SIGH OF RELIEF

MS. K, WHO IS on a disability pension, called Ombudsman Ontario after being told by her Ontario Disability Support Program worker that as a result of recent cut-backs two of her medications would not be covered by the Drug Card entitlement. Owing to her allergies and difficulties in swallowing, Ms. K was in desperate need of these two medications. An Ombudsman Representative contacted her Ontario Disability Support Program worker and was able to establish that with a doctor's supporting letter, although one of the

drugs was not on the list of approved medications, Ms. K would be able to get the medication. For the second medication, the worker agreed to ask for approval from a supervisor for this product. In the end, Ms. K. was very relieved that she would again be covered for both her medications.

REGISTRAR GENERAL RELENTS ON BIRTH CERTIFICATE

MS. T APPROACHED our office with a complaint that the Registrar General's office refused to issue a birth certificate for her seven year old grand-daughter for whom she has had legal custody since 1994. Ms. T noted that she had been trying without success to get a birth certificate in the child's father's name for her grand-daughter since 1993.

Ms. T indicated that her grand-daughter has a serious medical condition and as a result of this refusal by the Registrar General's office, she is not able to get the necessary medical treatment for her grand-daughter. She noted that in order to care for her grand-daughter she requires provincial assistance and to continue to receive such assistance, Ms. T had to provide proof as to the child's biological parents in the form of a birth certificate. She also could not get an Ontario Health Card for her grand-daughter without a birth certificate and in addition, to register her grand-daughter with her First Nations to qualify for assistance for medical treatment, she also required a birth certificate for the child.

Ms. T noted that the Registrar General's staff insisted she get a letter signed by the biological mother attesting to the child's paternity. Ms. T had attempted on several occasions to get this letter from the mother but was not successful. An Ombudsman Representative made inquiries to the Registrar General's office. Eventually, the Delayed Registration Manager agreed that a document Ms. T had previously submitted, a Statement of Live Birth signed by both parents, was in fact, sufficient to have a birth certificate issued to Ms. T.

As a result, Ms. T was asked to attend the Registrar General's office one last time to complete a Delayed Registration Form with a copy of this document attached as adequate material to have a birth certificate issued. Ms. T expressed her gratitude for the assistance of Ombudsman Ontario in bringing to an end an issue which was unresolved for five years.

WHAT'S IN A NAME?

MR. E, A francophone senior from Northern Ontario, was issued a new Health Card with an incorrect first name. Mr. E, along with thousands of other French Canadian Catholic males, had been baptized with the first name Joseph and as a result, his legal first name on his birth certificate was Joseph. However, Joseph was not his given name. All his legal documents including driver's licence and bank accounts were in his second given name, the one he has used all his life. This given name had also been on his initial Health Card. The first name of

Joseph on his Health Card was causing a number of problems related to his medical records and although he had tried to rectify the situation with the Ministry of Health, he was unsuccessful. An Ombudsman Representative contacted the Ministry of Health and outlined the difficulties being caused by this situation. A few days later the matter was resolved and a new Health Card was issued to the client with his given second name.

SPEEDY PROCESSING

MR. AND MS. P enjoy the winter months of their retirement in Florida. However, in February 1998 they were unfortunately involved in a serious car accident which left them both hospitalized. Eventually they were able to return to their home in south-western Ontario but when several bills from their hospital stay in the USA began to arrive to their home mailbox, they became very worried. Mr. and Ms. P had coverage for out of province claims but such claims had to be first processed through the Ontario Health Insurance Plan (OHIP) and then submitted to their private insurance carrier.

Mr. and Ms. P had made several calls to their local OHIP office after they had forwarded bills and letters, but their claims had not been processed. An Ombudsman Representative got in touch with the staff at the OHIP office who reviewed the file and then contacted the Claims Supervisor at OHIP who took action to have the claim immediately processed. Mr. and Ms. P were then able to submit the unpaid portion by OHIP to their

private insurance carrier for final payments.

DISABILITY BENEFITS PAID

MS. Q PHONED our office because of a problem she was having with the Ontario Disability Support Program (ODSP). Mr. and Ms. Q are disabled and received benefits under the ODSP. Since they had separated and were in the process of obtaining a divorce, the Ministry was applying its policy of only issuing one cheque to cover both individuals. Ms. Q reported that when she received her benefit cheque for the month of October, her caseworker instructed her to pay all her spouse's household expenses. After paying her spouse's bills, Ms. Q maintained she did not have any money left over for herself and her two children. Ms. Q contacted her worker to obtain additional benefits and was told that she would have to wait until the end of the month.

The Ombudsman Representative contacted the caseworker who indicated that Ms. Q had not been given any instructions regarding the division of the benefit cheque. He confirmed that Ms. Q was reminded that the proceeds of the cheque would have to be shared with Mr. Q, but noted that he did not provide her with specific instructions on how it should be spent. The caseworker reported that Mr. Q had submitted a separate application for benefits as a result of the marriage breakdown but he would not receive his first cheque until the end of October. The caseworker suggested that Ms. Q was

not entitled to any additional benefits and she would have no choice but to wait until the end of the month to receive her November payment.

The Ombudsman Representative was later contacted by the caseworker who advised that upon further review of Ms. Q's file, it was noted that she might be eligible for a community-start up allowance. The Ombudsman Representative was able to confirm that Ms. Q had not received this benefit previously, and arrangements were made to provide her with the funding to help offset some of her expenses.

CORONER'S OFFICE COMPLETES REPORT

A YOUNG MAN contacted our office with a complaint against the Coroner's office. He explained that his mother had passed away about a year ago and at the time of her death, the family had requested an autopsy be done on her body. After contacting the Coroner's office several times to obtain the final report, he was informed that there was a delay in obtaining the written report. An Ombudsman Representative made a call to the Coroner's office and after looking into the case, the Coroner's staff agreed that there had been a delay in this case but efforts would be made to speed up the matter and have the report completed within two weeks. Shortly thereafter, the Ombudsman Representative received a call from the Coroner's office stating that the autopsy report had been completed and mailed to the client.

Thank you letters

I would like to thank you for the many long hours you have spent on my case. You have shown such compassion, sincerity and genuine interest throughout the past year and more that I can only say, yes, there are people who really care and I sincerely feel that you are one of them! The end result may not have been what I truly wished for, however, sometimes it's the battle that is the challenge, not the war. Your complete honesty throughout in not making any promises was much appreciated as the end result was less of a disappointment. Thank you again for being a good "servant of the public".

I would like to take the time to thank you for having dedicated and helpful staff. While I was in dire straits not knowing what way to turn, I finally contacted the Ombudsman. In doing this wise move, I came to speak frequently with (staff person) who needs a dozen roses. Please inform her she is doing a great job helping people.

The purpose of this correspondence is to commend you on one of your staff members. For the first time in six years since my enrollment with the Family Responsibility Office I have encountered an individual who exhibits a sense of concern and sincerity in the job she does. She has underlined my confidence in your office through the integrity she exudes by way of "not losing my telephone number", maintaining

communication and being consistent in the information she provides. She has injected the human element into the bureaucratic process. When you complete a telephone call with (staff person) you are left with the feeling that you are a human being, not just a number.

A few months ago I attempted to do business with the (government) office with nil results. I was never able to get through to them by telephone and it took 39 days to receive a form letter from them in reply. In the meantime, more or less in desperation, I contacted your office for assistance. I was most fortunate in getting assistance from (staff person). This lady was most helpful, competent and sympathetic and as a result of her efforts and advice I was able to solve my problem. I would like at this time to convey my humble thanks and appreciation to your office and especially to (staff person). Oh if only more of our civil servants were like her.

On behalf of the Mental Health Legal Committee which I chair, and on behalf of our members' clients who are consumers of mental health services, I wish to extend to you and your office our sincere gratitude for your efforts to rectify the situation of the appeal filing fee which constituted such a serious impediment to our clients' access to justice. You have been extraordinarily helpful to our clients in referring the matter to the attention of

the appropriate branches of the Attorney General's office and in following up with them as you have done. In particular, we appreciate your efforts to keep us updated on the progress of the review of this filing fee. We are delighted to have received your July 15, 1998 correspondence which advised that these appeals will no longer be subject to a filing fee. Unrepresented appellants, low-income appellants who nevertheless do not qualify for legal aid, as well as the Ontario Legal Aid Plan will derive an immediate benefit from this result. Thank you once again for your kind assistance in this important matter.

Without a doubt you and your staff have spent many hours on my case. Your detailed letter certainly proves this. I have enclosed a copy of the letter of apology that I received from the Ministry, as a result of your investigation. I would especially like to thank (staff person) for her many phone calls and endless hours of research. She was very supportive and most pleasant at all times. I appreciate your efforts and again, thank you.

I would like to say thanks to the workers who have helped me out with my problems since I have come to Millbrook Correctional Centre. I don't know what I would have done without these fine staff. So I thought I would write a letter to say what a fine job you guys are doing. Keep up the good work Ombudsman.

In striving *to achieve our vision,*
Ombudsman Ontario is committed to the following
goals for fairness and service:

- Investigate and resolve complaints efficiently
- Deliver relevant, timely, impartial and accessible services
- Foster objective standards of governmental administration
- Act as a resource to governmental organizations and the public to prevent future complaints
- Increase public awareness of Ombudsman Ontario's services
- Be ethical and accountable
- Encourage teamwork through consultation and communication
- Monitor and evaluate our organizational performance
- Realize individual potential through proactive human resource practices

CONTACT INFORMATION

1-800-263-1830 – English

1-800-387-2620 – Français

1-800-586-3510 – TTY, hard of hearing and deaf

1-416-586-3485 – Fax

Website: www.ombudsman.on.ca

This Annual Report is available in French and alternative formats by request.

For general information, or mailing address changes please call our Communications office at 416-586-3353.



OMBUDSMAN ONTARIO REGIONAL OFFICES

London Office

920 Commissioners Road East
London, Ontario N5Z 3J1

Ottawa Office

227 Rideau Street
Ottawa, Ontario K1N 5X8

Sault Ste. Marie Office

111 Great Northern Road., Unit #2
Sault Ste. Marie, Ontario P6B 4Y9

Sudbury Office

66 Elm Street, Suite #108
Sudbury, Ontario P3C 1R8

Thunder Bay Office

125 North Cumberland Street
Thunder Bay, Ontario P7A 4M4

Toronto Office

125 Queen's Park
Toronto, Ontario M5S 2C7



ABOUT OUR LOGO: This is the symbol for Ombudsman Ontario. The "O" stands for our name. Inside, three sets of arms are coming together: one each for the public, the government and our office.

OMBUDSMAN ONTARIO

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1999/2000 Annual Report



**"The Ombudsman shall report annually upon the affairs of the
Ombudsman's office to the speaker of the legislative assembly who shall
cause the report to be laid before the assembly..." Ombudsman Act, S.11.**



June 2000

Speaker
Legislative Assembly
Province of Ontario
Queen's Park

Dear Mr. Speaker:

I am pleased to submit to you my Annual Report for the period of April 1, 1999 to March 31, 2000,
pursuant to Section 11 of the Ombudsman Act so that you may table it before the Legislative Assembly.

Yours sincerely,

A handwritten signature in cursive script, reading "Clare Lewis".

Clare Lewis, Q.C.
Ombudsman

Clare Lewis, Q.C.
125 Queen's Park
Toronto, Ontario M5S 2C7
Telephone (416) 586-3300
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1(800) 387-2620 (Français)



Clare Lewis, Q.C.

“Because individual complainants are the core focus of our work, there is a need to reach out to a broad range of constituencies to reinforce our presence and to make the public as a whole aware of our services.”

OMBUDSMAN MESSAGE, 1999-2000

It is a privilege for me to introduce this annual report as my first formal opportunity to bring a message to the Legislature of Ontario, and through it, to the people of this province.

I first want to acknowledge my gratitude for the unanimous support my appointment as Ontario's fifth Ombudsman received from the members of the Legislature. When I was interviewed for the position by members of the Standing Committee on the Legislative Assembly representing the three political parties, I was reminded of the critical need for a strong, mutually respectful working relationship between the office of the Ombudsman and all elected members. An Ombudsman's credibility rests at least in part on the confidence of the sitting members. In this context I want to emphasize my commitment to act as a servant of the Legislature and to demonstrate continuously my accountability as one of its officers.

I would also like to state my appreciation for the work of my predecessor, Roberta Jamieson. She served with considerable distinction through three different administrations and set a unique standard for conduct and performance that will be a challenge to sustain. Ms Jamieson was unrelenting in promoting the principles of ombudsmanship through her wide travels and high profile among communities across Ontario, as well as nationally and internationally. In taking over the lead of this vital public service organization following a period of dramatic change in both its internal and external environments, I am indebted to her far-sighted and energetic leadership.

My appointment took effect at the end of January this year, following a period of three months during which Fiona Crean, Ombudsman Ontario's Executive Director, filled the position on an interim basis. Ms Crean and the very dedicated and talented staff at the Ombudsman's office worked through the uncertainty of this transition period with skill and perseverance. They have all been of enormous assistance to me in supporting my introduction to the office and in welcoming me with warmth, advice, and no small measure of hard work.

"The Ombudsman is intended to be an independent and impartial officer of the Legislative Assembly, mandated to investigate public complaint of error or unfairness in public administration and, when appropriate, to make recommendations for correction."

Because I took up the post with only two months remaining in the fiscal year covered by this annual report, most of the information contained within it reflects the work carried out before my mandate began. The period since my appointment on January 31, 2000 has presented interesting challenges as I learn the breadth and complexity of the issues involved in administering the provisions of the *Ombudsman Act*. My early review of complaints and inquiries from the public and my interaction with officials across a wide spectrum of public service have left one very important first impression.

That impression is the necessity of strengthening the relationships between this office and the many publics served by it. Because individual complainants are the core focus of our work, there is a need to reach out to a broad range of constituencies to reinforce our presence and to make the public as a whole aware of our services. It is also necessary for me and my staff to engage positively with public servants at all levels of decision-making to ensure the role and function of the Ombudsman's office is well understood and respected. Essential to that aim is our understanding of and respect for the important and often difficult work of those public servants. Their values, commitment, and efforts warrant our recognition and regard. I trust that my own background in public service and law has given me a solid grounding in the principles of administrative justice and in the values and operations of public institutions. There is of course much for me to discover, but I am determined to make sure my office is accessible, transparent, efficient and accountable in all its relationships.

The Ombudsman is intended to be an independent and impartial officer of the Legislative Assembly, mandated to investigate public complaint of error or unfairness in public administration and, when appropriate, to make recommendation for correction. The success of the Ombudsman in achieving positive results from such recommendations depends on the quality of the investigations and the objectively rational merit of the recommendations. The power of the Ombudsman is ultimately persuasive only, and that goal is best achieved through a clearly non-partisan and independent approach.

As Ombudsman, I am intent on achieving positive results from our early resolution efforts and through our investigations and recommendations by assuring government,



the Legislature, and the public service that our work is founded in a proper finding and cogent assessment of the facts of each case and a commitment to fairness for all individuals.

My staff are well prepared for this commitment, and are also anxious that I undertake a broad programme of public outreach to ensure that our service is not only available to, but broadly understood and valued by the public throughout this province. In adjusting to a smaller staff in the past few years, and in re-organizing to ensure effective service delivery, outreach has necessarily been curtailed. I have noted that the Greater Toronto area is significantly under-represented in our complaint intake. In this context, I intend to ensure that those in this area who might benefit from our service are informed of and confident in its availability and value.

This year's twenty-fifth anniversary of the passage of the *Ombudsman Act* represents an excellent opportunity to put these principles into practice. I have begun a planning process to schedule activities marking the anniversary in October of the appointment of Mr. Arthur Maloney, Q.C., as the province's first Ombudsman in 1975. I wish to use this occasion to celebrate the continuing achievements of this institution and to remind all our publics - the Legislature, government officials, media outlets, community organizations and the general population - that the creation of an Ombudsman's office was a momentous step forward in the evolution of our democracy. Twenty-five years later we must still be vigilant in ensuring the office remains relevant, dynamic, and visible as a cornerstone of our shared democratic values promoting accountability in the delivery of public services.

Although this report covers only a short period during which I was responsible for initiating and concluding the investigative work of the office, there are three examples I would like to highlight in this report. These include: an investigation into the Ministry of Transportation's administration of those portions of the *Highway 407 Act, 1998*, dealing with the collection of tolls and fees; the recurring evidence of systemic problems in the application of policy at the Ministry of Correctional Services; and the final disposition of four investigation reports tabled last year with the Legislature. Case stories on these matters are contained elsewhere in this report.



The Ministry of Transportation's (MTO) administration of the Highway 407 Act, 1998.

As a result of a number of complaints to my office from individuals concerning MTO's practices relating to validation and issuance of vehicle permits I initiated an investigation into the Ministry's administration of those portions of the Act dealing with the collection of tolls and fees. In a letter to the Ministry's Deputy Minister following my investigation, I noted that because the Ministry is not required to monitor any aspect of customer service provided by the highway owner under the Act, and because the practice of license plate denial on the basis of non-payment of tolls had been suspended until further measures are in place, I would not be conducting any further investigation. I noted that although MTO was involved at various stages in the planning and execution of the privatization of Highway 407, another government organization led the process. I suggested that it was unfortunate neither the Act nor the Concession and Ground Lease Agreement covering its implementation contained accountability mechanisms related to legislative compliance regarding toll collection. In closing the file I commended MTO for its actions in responding to problems in a timely manner and recommended that the lessons learned in this case be shared with other Ontario Public Service agencies which may be involved with similar privatization initiatives. In particular, I stated: "This matter highlights the need in privatization initiatives for accountability mechanisms which will enable the government to ensure that the private sector partner acts fairly with the public."

Systemic problems in the application of policy at the Ministry Correctional Services.

I am concerned with the recurring evidence presented in three separate investigations concluded this year that there is a systemic problem in the lack of consistent application of official policy and standing orders across correctional facilities in the province's prison system. Based on complaints received from inmates at various institutions, my office investigated a range of issues involving segregation procedures, use of force, and lost property. In all three of these investigations the evidence gathered showed a pattern wherein Ministry policy and institutional standing orders are not administered consis-

"In closing the file I commended MTO for its actions in responding to problems in a timely manner and recommended that the lessons learned in this case be shared with other Ontario Public Service agencies involved with similar privatization initiatives."

tently. Significant issues affecting staff training and Ministry-wide communication and enforcement were identified, and tentative recommendations were made concerning the entitlements of inmates to minimum standards affecting hygiene, health care and fair and reasonable treatment based on Ministry policy and institutional standing orders. The tentative conclusions and recommendations in these investigations were all accepted by the Ministry and undertakings have been given to improve performance in these areas. I would like to note in this context that as privatization initiatives proceed in the Ministry, the issue of accountability in the treatment of inmates, as one indicator of overall security and efficiency in the administration of facilities, is likely to remain a matter of concern.

Final disposition of four investigation reports tabled with the Legislature.

In April 1999, my predecessor tabled with the Legislature four final investigation reports containing conclusions and recommendations not accepted by the government organizations involved. The reports included the case of Ms P and the Ontario Human Rights Commission (OHRC), and three investigations into service provision involving: the OHRC; the Family Responsibility Office (FRO) at the Ministry of the Attorney General; and the Adoption Disclosure Register at the Ministry of Community and Social Services. The normal practice is for such reports to be forwarded to a Standing Committee for public hearing.

When I took office these reports had not been disposed of by the Legislature, and accordingly, I initiated follow-up discussions with the organizations involved in an attempt to resolve the issues raised in the reports. Having concluded my review, on April 13, 2000 I wrote to the Chair of the Standing Committee on the Legislative Assembly to provide an update based on this activity. I withdrew all four reports. These included the case of Ms P, in which the OHRC agreed to provide a satisfactory resolution by apologizing and compensating the complainant for the manner in which it dealt with her case. With respect to the length of time in processing cases at OHRC and FRO, I stated that in my view the passage of time since these reports were prepared meant that the current operations of each of these program areas were not reflected in the reports, and consequently, no practical purpose would be served by a public hearing. I further noted my intention to



"As privatization initiatives proceed in the Ministry, the issue of accountability in the treatment of inmates, as one indicator of overall security and efficiency in the administration of facilities, is likely to remain a matter of concern."

monitor the issues raised in the reports through the normal course of our work addressing complaints as they arise. Finally, in the case of the Adoption Disclosure Registry, the Ministry of Community and Social Services has responded positively to the Ombudsman's recommendations, and allocated an additional \$2.4 million to the program. The Ministry intends to hire an additional 24.5 staff and eliminate the ADR's backlog within 18 months.

Although certain high profile complaints and government program areas tend to receive wide publicity through Ombudsman reports and the media, I have noted in my brief tenure a largely unheralded, but enormously important feature of the daily work of the staff of the Ombudsman. In reviewing the case stories selected for inclusion in this report, I have been struck, and quite moved by the quiet and frequent resolution of complaints by staff, usually at an early stage. As a reading of these stories will reveal, my office regularly achieves redress for members of the public, often in matters which have considerable, and sometimes dire impact on the lives of those affected. These important resolutions are normally achieved by those staff members and their managers without the direct involvement of the Ombudsman. It is a testament to them, and to those many public servants with whom they interact, that government services are provided properly and fairly.

I have expressed my awareness of the privilege afforded me by this appointment. Throughout the coming five years, I shall make signal effort to ensure the relevance and effectiveness of this office in securing fairness to all in the administration of provincial government services.

Clare Lewis, Q.C., Ombudsman

YEAR IN REVIEW



“This has been a year of tremendous change for Ombudsman Ontario...Despite the uncertainty associated with a change in leadership, the work of the organization continued apace.”

YEAR IN REVIEW

- Inside Ombudsman Ontario
- Statement of Expenditures
- Survey Reveals Data to Shape Service
- Complaints About Us
- Public Education and Outreach

COMPLAINTS

CASE STORIES



INSIDE OMBUDSMAN ONTARIO: A YEAR OF TRANSITIONS

This has been another year of tremendous change for Ombudsman Ontario. In May 1999, Roberta Jamieson announced to the staff that she would not be seeking re-appointment and that she would be leaving office at the end of October. The Legislative Assembly of Ontario then undertook an open competition to seek a successor and announced the appointment of Fiona Crean, Executive Director, for a three-month period while the search for a permanent Ombudsman was under way. The budget for the Ombudsman's office for the fiscal year 1999/2000 was not approved by the Legislature's Board of Internal Economy until the end of November 1999.

Despite the uncertainty associated with a change in leadership, the work of the organization continued apace. Four final reports were tabled with the Legislature as the result of both individual and system-wide investigations (these investigations are reviewed elsewhere in this report). With the hiring of a Complaints Resolution Manager for policy and program development, the public education and outreach program at Ombudsman Ontario has been re-focused and is again underway following extensive downsizing and a complete restructuring of the organization over the past four years.

An organization-wide training program introduced in the fall of 1998 has continued at both an individual and group level. The focus has centred on enhancing performance effectiveness and further developing a range of computer skills among staff, while additional training has addressed writing and technical investigative skills. Managers have benefited from training designed to strengthen overall managerial capacity and a program of dispute resolution workshops is under way for all Complaints Resolution staff. On the recruitment front, there have been several internal promotions resulting in an almost

complete turnover of the Access Centre team. Recruitment and training are constant features of the operation of our Access Centre, as is typical of any call centre environment.

The Complaints Resolution Manual published last year to ensure consistency of approach in all complaint-handling, and to provide a resource training document for staff, has been updated to reflect changes in program and procedures. A Performance Management Manual has been produced outlining the performance accountability system at Ombudsman Ontario and containing a description of key accountabilities for every staff position, including managers' competencies and standards for employee behaviour in service delivery. The computerized Case Management System has been licensed, and along with its user manual has been sold and installed in a number of Ombudsman jurisdictions. A member of our systems staff, at the expense of the Ghanaian Ombudsman, visited that country to install the system and train staff in its uses.

Staff of Ombudsman Ontario supported the development and delivery of a conference in Toronto on "Governance, Accountability and Human Rights in an era of Change" co-sponsored with Victoria University and the Human Rights Research and Education Centre at the University of Ottawa. A delegation from the National Assembly of Vietnam attended our office to learn about our investigative process, legal mandate and our relationship with the Legislature and other government authorities. A staff member was sponsored by the Canadian Executive Services Overseas to assist the newly created Ombudsman of Bolivia by providing management consultation on a broad range of issues from training to human resources. Subsequently, the Ombudsman of Bolivia and members of her staff visited Toronto to

review our operations. We also hosted visits from the Ombudsman of Namibia, Tanzania, Bostwana, Namibia, Peru, Honduras and Sri Lanka.

Finally, our organizational evaluation system, introduced last year and designed to evaluate the effectiveness of a number of

our service standards, has proved to be a vital tool in strengthening our overall operations. Evaluation projects have been ongoing through the year and have enabled us to identify where our operating standards need to be adjusted to meet the needs of the parties we serve.

STATEMENT OF EXPENDITURE For the Year Ended March 31, 2000

Expenditure	99/00 Estimates \$ (note 4)	99/00 Actual \$	98/99 Actual \$
Salaries and Wages	4,647,700	4,626,735	4,340,312
Employee Benefits (note 3)	905,600	1,002,006	958,913
Transportation and Communication	524,000	452,245	452,045
Services	1,472,400	1,404,615	1,641,404
Supplies and Equipment	233,100	295,974	596,646
Sub Total	7,782,800	7,781,575	7,989,320
Less Miscellaneous Revenue	0	10,545	125,723
Net Expenditure	7,782,800	7,771,030	7,863,597

See accompanying notes to financial statement.

Approved:



Ombudsman

NOTES TO FINANCIAL STATEMENT March 31, 2000

1. ACCOUNTING POLICIES

a) Basis of accounting

The Office uses a cash basis of accounting which, in the case of expenditures, is modified to allow an additional thirty days to pay for goods and services pertaining to the fiscal year just ended.

b) Furniture, equipment and leasehold improvements

Expenditures on furniture, equipment and leasehold improvements are expensed at the time of purchase.

2. EXPENDITURE AND MISCELLANEOUS REVENUE

Expenditures are made out of monies appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.

3. PENSION PLAN

The Office provides pension benefits for all its full-time employees through participation in the Public Service Pension Fund (PSPF) established by the Province of Ontario. The Office's contribution related to the PSPF for fiscal year 1999/2000 was \$338,030 (1998 - \$311,116) which is included in employee benefits.

4. RESTRUCTURING COSTS

Included in the 1999/2000 Estimates for Salaries and Wages and Employee Benefits is a restructuring fund totaling \$75,300 (1999 - \$280,000), for the necessary ongoing restructuring payments as a result of a 20 per cent budget reduction in 1996/97. The actual restructuring cost for 1999/2000 was \$78,410 (1999 - \$276,677).

AUDITOR'S REPORT

Office of the
Provincial Auditor
of Ontario



Bureau du
vérificateur provincial
de l'Ontario

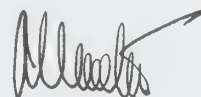
Box 105, 15th Floor, 20 Dundas Street West, Toronto, Ontario M5G 2C2
B.P. 105, 15e étage, 20, rue Dundas ouest, Toronto (Ontario) M5G 2C2
(416) 327-2381 Fax: (416) 327-9862

To the Ombudsman:

I have audited the statement of expenditure of Ombudsman Ontario for the year ended March 31, 2000. This financial statement is the responsibility of that organization's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 2000, in accordance with the accounting policies described in note 1 to the financial statement.



Toronto, Ontario
May 12, 2000

J.R. McCarter, CA
Assistant Provincial Auditor (Acting)

SALARY DISCLOSURE

The following list of those earning \$100,000 or more in T4 income for the year 1999 is being reported in accordance with the Public Sector Salary Disclosure Act 1996:

Fiona Crean, Ombudsman (Interim) /
Executive Director

T4 Income	\$132,248.76
T4 Taxable Benefits	\$358.96

Roberta Jamieson, Ombudsman

T4 Income	\$121,056.08
T4 Taxable Benefits	\$1,923.66



SURVEY REVEALS DATA TO SHAPE SERVICE

The Ombudsman is committed to providing services that are responsive to the needs of the diverse publics we serve. In order to meet this goal, we survey complainants to get a better idea of who contacts the Ombudsman. The survey, which is voluntary, collects information about gender, age, race, disability, parental status, First Nations/Aboriginal status, and household income.

Of the complainants who responded to our survey this year, 54% were classified as economically disadvantaged, a decline of 4% from last year. Also declining was the number of complainants who were sole support parents, dropping from 18% to 15%. The proportion of respondents who identified themselves as having a disability was unchanged at 32%. The following is a summary of statistical information that provides a picture of our complainants as identified in our survey.

Excluding complaints from individuals about the Ministry of Correctional Services, three ministries received the largest number of complaints: the Ministry of the Attorney General, the Ministry of Labour, and the Ministry of Community and Social Services. These three ministries accounted for 58% of all non-corrections complaints, an increase of 4% from last year. Over 60% of complaints received by these three ministries were from people with low incomes and over 50% were from people with disabilities.

Ministry of the Attorney General

As was the case last year, the Ministry of the Attorney General accounted for just under a quarter (24%) of all non-corrections related complaints. Women made up 55% of complainants against the ministry, a drop of 6% from last year. More than half of all complainants identified as sole support parents made their complaint against the Attorney General, an amount unchanged from last year. The high proportion of complainants who are sole-support parents and women is explained by the presence of the Family Responsibility Office in the Ministry of the Attorney General. This office was the source of 19% of all complaints, the same proportion

as last year. Repeating a pattern from the previous year, just over 90% of women and over 95% of sole support parents making a formal complaint about the Ministry of the Attorney General had concerns with the Family Responsibility Office. Twenty per cent of all provincial government complaints received from First Nations and Aboriginal people were about the Family Responsibility Office, an increase of 2% over last year.

Ministry of Labour

The proportion of complaints made against the Ministry of Labour rose slightly to 19% this year, up from 18% in the previous year. Individuals with disabilities accounted for 70% of the complaints directed against the Ministry of Labour. This year also saw a change in the proportion of complaints about this ministry from men and women as the number of men making a complaint regarding the Ministry rose from 67% to 70%. Within the Ministry of Labour, the Workplace Safety and Insurance Board accounted for 70% of complaints and as was the case last year, the Board was the provincial agency receiving the second largest number of complaints overall at 12.7%. The number of persons with disabilities making complaints about the Board increased this year from just under 50% to 77%.

Ministry of Community and Social Services

The proportion of complaints against the Ministry of Community and Social Services rose slightly this year to 16%, up from 14% last year. Almost 77% of individuals with complaints about this ministry were persons with disabilities, while 88% identified themselves as poor. Close to 60% of complaints related to the Ontario Disability Support Program, a program that accounted for 9% of all complaints against provincial organizations. The Ontario Disability Support Program replaced the Family Benefits Allowance, a program which last year contributed 7% of all complaints.

Other Highlights

The level of complaints from youth rose to 3%, up from 2% last year. However, unlike last year which saw the bulk of complaints

directed to the Ministry of Education and Training, this year the distribution was primarily spread out over three ministries, the Ministry of Training, Colleges and Universities (23%), Ministry of Transportation (22%), and Ministry of Labour (14%). As might be expected, over 84% of complaints from youth to the Ministry of Training, Colleges and Universities were about the Ontario Student Awards Program. (Post-secondary educational issues were transferred from the Ministry of Education and Training to the newly created Ministry of Training, Colleges and Universities in the summer of 1999.)

Complaints from people who are seniors remained stable at 8%. Among the ministries receiving the greatest number of complaints from this group were the Ministry of Health and Long-Term Care and the Ministry of the Attorney General.

The proportion of survey respondents identifying themselves as people of colour or racial minorities rose again this year to 7%.

This group remains, relative to their numbers in the province, underrepresented in Ombudsman Ontario's complainant base, given that they account for 16% of Ontario's population. This is partly explained by the curtailment in recent years of public education activities in the Greater Toronto Area, where over half of the province's racial minorities are located.

In this regard it is interesting to note that First Nations and Aboriginal people, though accounting for about 2% of Ontario's total population, comprise 4% of the survey's respondents, up one per cent from last year. This is likely related to the fact that many First Nations and Aboriginal people live in northern Ontario, a region where Ombudsman public education efforts have remained strong over the last several years.

Ombudsman Ontario will use the results of the survey to help shape the delivery of our programs over the coming year, in particular public education and outreach efforts.



COMPLAINTS ABOUT US

The system for reviewing complaints from the public or government officials who are dissatisfied with the manner in which a complaint is handled by staff at Ombudsman Ontario has now been in place for four years. We encourage people to bring forward their complaints about us as a source of feedback, and to help us identify how we might improve our services.

When complaints about us are received, the complainant is encouraged to raise the issue first with the staff member involved. If the matter remains outstanding, the staff member's manager will attempt to resolve the matter. The complainant may then contact the Executive Director if the matter remains unresolved. Should the complaint involve the Executive Director, the Ombudsman will refer the issue to a Legal Advisor for review and determine what, if any, further action may be taken to address the concern.

This year we received 28 complaints, compared to 54 in the previous year. Nineteen of these were about decisions or outcomes of complaints or investigations. Five were complaints about delay or lack of contact from staff, while four involved complaints about staff conduct.

Of the 19 complaints received about decisions or outcomes of complaints or investigations, six were addressed by advising the complainants how their files were reviewed. In five instances, explanations were provided about our process in handling third-party complaints and the confidentiality provisions of the *Ombudsman Act*. Four complaints concerned our review of decisions about administrative tribunals. The Ombudsman's role in reviewing such decisions means that our office does not re-adjudicate cases or issue substitute decisions, but rather examines whether an administrative process followed by a tribunal in rendering its decision was fair.

No further action was warranted on two complaints because of the circumstances surrounding the original complaint. In one complaint about the Ombudsman's decision, an explanation was provided to the complainant along with an apology for the time taken to review the file. In another instance, there was a complaint about relevant information not being considered in our investigation. Since the complainant provided new information, the Ombudsman asked the complainant to provide documentation for further review.

We received five complaints about delay or lack of contact from staff. The Ombudsman met with one complainant to discuss his concerns about the adequacy of our investigation. In another, an apology was extended for our delay and the absence of regular communication by staff; this complainant was advised when to expect a decision on his file. In one instance in which the complainant alleged lack of contact from staff, it was found that the staff member had been unsuccessfully trying to call the complainant. As a result, a letter was sent outlining our contact efforts and providing a file status update. One complainant was dissatisfied with the length of time it took to assign her file to an investigator. The manager explained the process of assigning files out of our Complaints Register and informed the complainant when she might expect her file to be assigned. The last

complaint remains outstanding as the file is still open and being reviewed by the manager.

There were four complaints about staff conduct, and in each case the staff member involved was directed to address the concerns being raised. In response to one complainant's allegation that his file was closed without being contacted by staff, we apologized to him, gave him details about the staff communication that had taken place and acknowledged that we should have made more attempts to contact him. An apology was also extended to a complainant who alleged that staff provided information to a provincial governmental agency without obtaining his consent.

The Complaints About Us program will be evaluated once again this fiscal year so that we can strengthen our internal complaints mechanism.

PUBLIC EDUCATION AND OUTREACH

Ombudsman Ontario has continued its efforts to raise awareness about our services through a range of activities and events in communities across the province.

Among the numerous events we attended this year were:

- International Ploughing Match, Guelph
- Mayfest (an annual event in Toronto for the hard of hearing and deaf communities)
- Manitoulin Island Trade Fair
- International Women's Day events
- Six Nations Fall Fair, Ohsweken
- Youth Fair in London
- Information Fair for people with disabilities in Gloucester
- Gay Pride Day events in Toronto
- Canadian Association of Francophones in Ontario Annual Conference

We also met with and made presentations to such groups as:

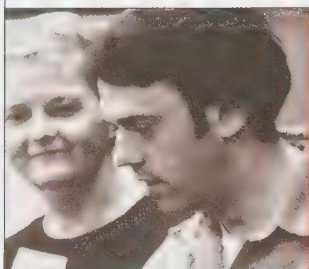
- Participants in the "Correctional Officer Start Programme" at the Ministry of Correctional Services' Bell Cairn Development Centre
- Recent Immigrants at the Centre Francophone du Toronto Metropolitain
- Staff of a senior's centre in Elliot Lake
- Members of a First Nations community in Wawa

- Participants in the "Women Aware Program" at Elgin Middlesex
- Residents of a youth facility in Sarnia
- Parents Group in Dryden

Staff members also conducted intake clinics across the province, particularly in parts of northeastern and southwestern Ontario. Since the closure of regional offices in Timmins, North Bay, Kenora, and Windsor after budget and staff reductions, special emphasis has been placed on reaching these communities through these clinics.

With the stabilization of staff and budget levels, plans have been finalized to renew public education efforts in the Greater Toronto Area (GTA) for the coming fiscal year. The need for such work in the GTA was highlighted by the results of a complainant survey commissioned by Ombudsman Ontario in May of 1999. The survey showed that, among other things, the Ombudsman's complainant base is comprised of a low proportion of individuals from the GTA. The survey also showed that proportionately there was a higher representation of complainants from Northern Ontario, a region where public education efforts have remained strong over the last several years, pointing to a link between such activities and public knowledge about and access to our services.





OMBUDSMAN ONTARIO STAFF LIST – MARCH, 2000

	Complaints Resolution Teams			
	Manager Alison Dantas Team Leader Marc Despatie Administrative Secretary Betty Baker Ombudsman Representatives Irene Buncel Mary Carl Hannalie Ethier Micheline Gagné Pauline Gignac Gabriella Trotta Investigators Gerry Carlino Rosie Dear Barbara Kiesecker Supervisor Eva Kalisz Access Representatives Alphonse Barikage Zalina Deodat Claire Giroux Marcel Grimard Nicole LeBlanc Roxana Olivera Johanne Safar	Manager Sue Haslam Team Leader Millicent Dixon Administrative Secretary Denise Salmon Ombudsman Representatives Danielle Barbeau-Rodrigue Julie Bertrand Jean Dennie Lira Hugh Kim Morris Marie-Claire Muamba Investigators Kwame Addo Kathy Penfold Elizabeth Weston Barbara Worthington	Manager Duncan Newport Team Leader Tim Arkell Administrative Secretary Kamala Kirushna Ombudsman Representatives Michelle Amaral Robin Bosworth Joane De Varennes Amita Shunglu Laura Spiers Pam Young Investigators Christine Angus-Jones Calvin Blackwood Mary Jane Fenton Anita Glasier Jim Nicholas	Manager Alison Irons Team Leader Mary Elizabeth Nugent Administrative Secretary Lourdes Legardo Ombudsman Representatives Naomi Bambara Winsome Cain Sharon Fowler Chakib El Hakmaoui Anne Hart Esla Hutchinson George La Rosa Lourine Lucas Beena Rajendra Joe Semenciw Investigators Barbara Hirst Matilda Presner Cathy Rea Elizabeth Virc
	Finance & Administration	Complaints Analysis & Information	Policy, Legal, Research and Communications	Human Resources
	Manager John Allan Administrative Assistant Dora Gimenez-Dixon Accounting Analyst Judith Lee Client Services Representative Wolfgang Schulz Word Processing Operators Maureen Bourns Jackie Holmes	Manager Duncan Newport Programmer Analysts Kwasi Frimpong Dianne King Clerical & Technical Support Suzanne Bernier Records & Archives Technician Jackie Correia End User Support Joyce Coolman	Communications Coordinator Gene Long Administrative Secretary Dean Morra Legal Advisors Laura Pettigrew Wendy Ray Analyst Lorraine Boucher Manager, Policy & Program Development Juan Gomez Policy Advisor Michael Orr Research Assistant Sherrie Nicholson	Human Resources Coordinator Joyce Leonard Administrative Secretary Grace Domingo

COMPLAINTS

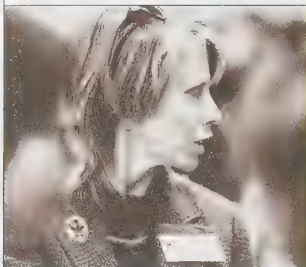


“In 1999/2000 Ombudsman Ontario statistics show a total of 22,720 complaints and inquiries received... Positive improvements occurred in our complaint-handling this year on a number of fronts.”

COMPLAINTS

- Story in Numbers
- Complaints by Riding
- Complaints by Organization
- Correctional Complaints

CASE STORIES



THE COMPLAINT STORY IN NUMBERS

In 1999/2000 Ombudsman Ontario statistics show a total of 22,720 complaints and inquiries received. This number represents a decline of 22.8% from the previous year's total of 29,396. A number of factors contributed to this decline, including a gap in the recording of non-jurisdictional inquiries. Following the first year of operation of a new centralized Access Centre for all incoming calls, a complete turnover of staff in this centre resulted in standard procedures not being followed in the computerized coding of calls related to private sector, federal and municipal government and other non-jurisdictional complaint areas. Following the identification of a gap in the recording of referrals, administrative changes were introduced to ensure accurate monitoring of all inquiries. An estimated 5,000 calls over a six month period were not correctly coded.

We also experienced a decline in non-correctional provincial complaints, which was offset by a dramatic increase of about 40% in correctional statistics. The drop off in provincial complaints may be attributed to the effect of a much smaller public education program, which coincided with staff reductions and the closure of four regional offices. It would also appear that fewer complaints are being received in program areas in which entitlements have been severely curtailed or eliminated altogether. On the other hand, we increased our correctional profile and our capacity to respond to complaints from inmates at a time when the system is undergoing significant change and inmates are experiencing the stresses associated with these changes.

Positive improvements occurred in our complaint-handling this year on a number of fronts. The vast majority of our core business - 75% of nearly 15,000 written jurisdictional complaints - saw files closed within 20 days of receipt of the complaint. This was an improvement of about five days from the previous year. Fifty per cent of the 15,000 written complaints were resolved within six days and the overall average for resolution was eighteen days. This emphasis on early resolution produces positive results in a number of ways as complainants are assured of quick action wherever possible and government agencies are able to address outstanding grievances in an efficient and timely manner.

Complaints requiring a formal investigation were also conducted on a speedier basis this year, averaging twelve months from opening to closing, improving on last year's performance by one month. On average this time included two months in our Complaints Register, where files are held following preliminary review and before assignment to investigations staff. This waiting time, which serves as a key workload management tool in ensuring tight timelines are adhered to during the investigation process, was reduced by more than a month from the previous year.

COMPLAINTS AND INQUIRIES CLOSED DURING 1999 - 2000

	Verbal Complaints and Inquiries			Written Complaints and Inquiries			Total		
	99-00	98-99	97-98	99-00	98-99	97-98	99-00	98-99	97-98
Provincial	879	4,623	7,125	13,366	9,768	9,052	14,245	14,391	16,177
Municipal	1,097	2,248	1,951	331	236	331	1,428	2,484	2,282
Federal	926	1,607	1,687	204	174	207	1,130	1,781	1,894
Private	4,635	7,853	7,571	715	546	600	5,350	8,399	8,171
Courts	300	468	544	124	99	100	424	567	644
Other	91	1,727	139	52	47	32	143	1,774	171
Total Non-Provincial	7,049	13,903	11,892	1,426	1,102	1,270	8,475	15,005	13,162
Totals	7,928	18,526	19,017	14,792	10,870	10,322	22,720	29,396	29,339

OUTCOME OF COMPLAINTS AND INQUIRIES CLOSED DURING 1999 - 2000

		Non Provincial			All Provincial			Provincial Government					
		99-00	98-99	97-98	99-00	98-99	97-98	Correctional System			Other Provincial		
Verbal	Resolution facilitated / Referral given / Inquiry made	7,022	13,872	11,811	867	4,468	6,768	29	1,200	1,528	838	3,268	5,240
	No action possible	27	31	81	12	155	357	2	137	261	10	18	96
Written	Investigation discontinued by Omb.				1,473	909	1188	995	459	791	478	450	397
	Investigation discontinued by complainant				968	826	448	930	773	328	38	53	120
	Resolved by Omb. in favour of complainant				158	182	576	85	89	382	73	93	194
	Resolved by Omb. in favour of government				54	73	182	0	4	7	54	69	175
	Resolved by Omb. by other means				89	112	63	81	101	45	8	11	18
	Resolution facilitated / Referral given / Inquiry made	1,393	1,053	1,205	10,264	7,278	6,437	4,107	1,857	853	6,157	5,421	5,584
	No action possible	33	53	65	360	388	158	134	169	38	226	219	120
Totals of all resolutions		8,475	15,009	13,162	14,245	14,391	16,177	6,363	4,789	4,233	7,882	9,602	11,944

GLOSSARY:

- **Verbal complaint or inquiry:** Complaint or inquiry usually received over the telephone.
- **Written complaint or inquiry:** Complaint or inquiry received by note or letter with signature of complainant.
- **Resolution facilitated / referral given / inquiry made:** Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.
- **No action possible:** No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the complainant is anonymous, or it is beyond our capacity to facilitate a resolution.
- **Discontinued by Ombudsman or complainant:** The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the complainant does not wish to pursue the matter further for various reasons.
- **Resolved by Ombudsman in favour of complainant:** The complaint is supported in favour of the complainant.
- **Resolved by Ombudsman in favour of the government:** The complaint was not supported. In some cases suggestions for change of policy or systems are recommended to the governmental organization.
- **Resolved by other means:** The complaint is resolved with minimal involvement of the Ombudsman.



IN ORDER OF FREQUENCY, THE MOST COMMON TYPES OF JURISDICTIONAL COMPLAINTS INVESTIGATED BY OMBUDSMAN ONTARIO THIS YEAR WERE:

	Types of Complaints	Rank Previous Year
1	Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence	1
2	Adverse impact or discriminatory consequence of a decision or policy on an individual or group	2
3	Failure to adequately or appropriately communicate with a complainant	8
4	Inadequate or improper investigation was conducted	4
5	Failure of governmental organization to adhere to own processes, guidelines or policies or to apply them in a consistent manner	3
6	Insufficient reasons for a decision or no reasons given	6
7	Denial of service	5
8	Unreasonable delay	7
9	Harrassment by a governmental official; bias; mismanagement; bad faith	11
10	Failure to keep a proper record	12
11	Other	13
12	Unfair settlement imposed; coercion	9
13	Failure to provide sufficient or proper notice	10
14	Omission to monitor or manage an agency for which the governmental organization is responsible	14

WRITTEN COMPLAINTS AND INQUIRIES BY PROVINCIAL RIDINGS

RIDING	Total	RIDING	Total	RIDING	Total
Algoma - Manitoulin	272	Kingston and The Islands	122	Prince Edward - Hastings	65
All Ontario - Systemic	6	Kitchener - Waterloo	62	Renfrew - Nipissing - Pembroke	103
Barrie - Simcoe - Bradford	346	Kitchener Centre	59	Sarnia - Lambton	200
Beaches - East York	49	Kitchener General Area	7	Sault Ste. Marie	586
Bramalea - Gore - Malton - Springdale	41	Lambton - Kent - Middlesex	112	Scarborough - Agincourt	24
Brampton Centre	222	Lanark - Carleton	77	Scarborough - Rouge River	18
Brampton West - Mississauga	54	Leeds - Grenville	357	Scarborough Centre	34
Brant	248	London - Fanshawe	111	Scarborough East	55
Broadview - Greenwood	392	London General Area	11	Scarborough Southwest	309
Bruce - Grey	171	London North Centre	125	Simcoe - Grey	73
Burlington	41	London West	98	Simcoe North	130
Cambridge	147	Markham	27	St. Catharines	70
Carleton - Gloucester	326	Mississauga Centre	37	St. Paul's	69
Chatham - Kent - Essex	174	Mississauga General Area	7	Stoney Creek	43
Davenport	37	Mississauga East	45	Stormont - Dundas - Charlottenburgh	149
Don Valley East	36	Mississauga South	45	Sudbury	361
Don Valley West	38	Nepean - Carleton	55	Thornhill	45
Dufferin - Peel - Wellington - Grey	73	Niagara Centre	245	Thunder Bay - Atikokan	118
Durham	46	Niagara Falls	51	Thunder Bay - Superior North	203
Eglinton - Lawrence	33	Nickel Belt	102	Thunder Bay General Area	14
Elgin - Middlesex - London	311	Nipissing	235	Timiskaming - Cochrane	286
Erie - Lincoln	59	Northumberland	89	Timmins - James Bay	159
Essex	72	Oak Ridges	47	Toronto Centre - Rosedale	144
Etobicoke - Lakeshore	205	Oakville	55	Toronto General Area	38
Etobicoke Centre	22	Oshawa	63	Trinity - Spadina	57
Etobicoke North	648	Ottawa - Centre	87	Unknown	109
Glengarry - Prescott - Russell	72	Ottawa - South	59	Vaughan - King - Aurora	53
Guelph - Wellington	547	Ottawa - Vanier	71	Waterloo - Wellington	32
Haldimand - Norfolk - Brant	99	Ottawa - West-Nepean	97	Wentworth - Burlington	38
Haliburton - Victoria - Brock	576	Ottawa General Area	11	Whitby - Ajax	162
Halton	431	Out Of Province/International	279	Willowdale	41
Hamilton East	58	Oxford	92	Windsor - St. Clair	82
Hamilton General Area	4	Parkdale - High Park	72	Windsor General Area	9
Hamilton Mountain	51	Parry Sound - Muskoka	173	Windsor West	233
Hamilton West	449	Perth - Middlesex	89	York Centre	48
Hastings - Frontenac - Lennox		Peterborough	158	York North	38
and Addington	328	Pickering - Ajax - Uxbridge	44	York South - Weston	38
Huron - Bruce	107			York West	33
Kenora - Rainy River	255				

WRITTEN COMPLAINTS AND INQUIRIES AGAINST PROVINCIAL GOVERNMENT ORGANIZATIONS BY FINAL RESOLUTION

ORGANIZATION	Complaint Resolved by Ombudsman in favour of:				Investigation Discontinued		Resolution Facilitated/Referral Given/Inquiry Made	No Action Possible	Total
	Complainant	Gov't Org.	Gov't Org. with Suggest	By Other Means	By Com't	By Omb.			
MANAGEMENT BOARD OF CABINET									
Management Board Secretariat		1				2	11	2	16
Ontario Lottery and Gaming Corporation	2					1	14	1	18
Ontario Pension Board							10		10
Ontario Realty Corporation						3	16	2	21
MINISTER RESPONSIBLE FOR NATIVE AFFAIRS							3		3
Native Affairs - Other									
MINISTER RESPONSIBLE FOR WOMEN'S ISSUES							1		1
Women's Issues - Other									
MINISTRY OF AGRICULTURE, FOOD, AND RURAL AFFAIRS									
Agricorp							1		1
Agricultural Licensing and Registration Review Board							1		1
Chicken Producers Marketing Board							1		1
Farm Tax Rebate Appeal Board							1		1
Ontario Drainage Tribunal						2	1		3
Agriculture, Food and Rural Affairs - Other						6	12		18
MINISTRY OF CITIZENSHIP, CULTURE AND RECREATION									
Ontario Film Development Corporation							1		1
Ontario Heritage Foundation						1	1		2
Ontario Human Rights Commission		1	2		2	50	130	11	196
Royal Ontario Museum - Board of Trustees		1				1	2		4
Citizenship, Culture and Recreation - Other						1	6		7
MINISTRY OF COMMUNITY AND SOCIAL SERVICES									
Adoption Disclosure Register							4	1	5
Arrell Observation and Detention Home for Children							1		1
Comsoc Young Offenders Open Custody/Detention Facilities - Other							3		3
Comsoc Young Offenders Secure Custody/Detention Facilities - Other							4		4
Developmental Services Branch		2	4			3	2		11
Disability Adjudication Unit						1	25	1	27
Family Benefits			2			7	85		94
Medical Advisory Board - Family Benefits Act							1		1
Office of Child and Family Service Advocacy							2		2
Ontario Disability Support Program	3				1	10	653	18	685
Ottawa Observation and Detention Home							1		1
Rideau Regional Centre					1	2	6		9
Social Assistance Review Board		1				10	38	2	54
Social Benefits Tribunal	1				2	3	99	5	110
Southwestern Regional Centre							1		1
St. John's School							1		1
Community and Social Services - Other	1	7		1		11	129	8	157
MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS									
Alcohol and Gaming Commission of Ontario					1	2	22		25
Board of Funeral Services							1		1
Business Practices Division							2		2
Commercial Registration Appeal Tribunal					1	4	1	1	7
Liquor Control Board of Ontario							8		8
Ontario Racing Commission							2		2
Registrar General						1	35		36
Consumer and Commercial Relations - Other	1					10	29	2	42
MINISTRY OF CORRECTIONAL SERVICES									
Correctional Centres	25			16	195	230	1,105	30	1,601
Detention Centres	22			23	310	407	1,597	55	2,414
Jails	29			36	340	295	1,126	43	1,869
Treatment Centres	3			1	8	18	83	3	116
Young Offender Centres	2			4	50	27	75		158
Young Offenders Open Custody / Detention Facilities - Other				1	22	9	45	1	78
Young Offenders Secure Custody / Detention Facilities - Other					3	1	7		11
Correctional Services - Other	4				2	8	69	2	85
MINISTRY OF ECONOMIC DEVELOPMENT AND TRADE									
Economic Development and Trade - Other	1	1	1			8	49	2	62
MINISTRY OF EDUCATION									
Education - Other						1	26		27
MINISTRY OF ENERGY, SCIENCE AND TECHNOLOGY									
Ontario Hydro	3					3	57	5	68
Energy, Science and Technology - Other							4		4
MINISTRY OF ENVIRONMENT									
Environmental Assessment Board							1		1
Environment - Other		1				8	53	4	66
MINISTRY OF FINANCE									
Financial Services Commission of Ontario					1	6	15		22
Land Transfer Tax							7		7
Motor Vehicle Accident Claims Fund							1		1
Ontario Insurance Commission		1				1	11		13
Ontario Securities Commission							3		3
Pension Commission of Ontario							3		3
Property Assessment Program							9		9
Retail Sales Tax	2					2	15	1	20
Finance - Other				1	1	5	54	5	66

WRITTEN COMPLAINTS AND INQUIRIES AGAINST PROVINCIAL GOVERNMENT ORGANIZATIONS BY FINAL RESOLUTION (continued)

ORGANIZATION	Complaint Resolved by Ombudsman in favour of:				Investigation Discontinued		Resolution Facilitated/Referral Given/Inquiry Made	No Action Possible	Total
	Complainant	Gov't Org.	Gov't Org. with Suggest	By Other Means	By Com't	By Omb.			
MINISTRY OF HEALTH AND LONG-TERM CARE									
Assistive Devices Program / Branch	1					2	11		14
Health Professions Board	1					15	16	8	40
Health Services Appeal Board							8		8
Hospital Appeal Board						1			1
Long Term Care Branch						2	1		3
Mental Health Centres							27	2	29
Psychiatric Hospitals - Other				1		2	80	4	87
Northern Health Travel Grant						1	29		30
Ontario Drug Benefit							3		3
Ontario Health Insurance Plan						3	90	2	95
Psychiatric Patient Advocates						1	16		17
Psychiatric Review Boards							1		1
Trillium Drug Program							54	1	55
Health and Long Term Care - Other	2				2	14	153	9	180
MINISTRY OF LABOUR									
Employment Practices Branch	4	2	2		1	7	46		62
Grievance Settlement Board						2	4		6
Office of the Worker Advisor						1	21		22
Ontario Labour Relations Board					2	9	33	1	45
Public Service Grievance Board					2	1	3		6
Workplace Safety and Insurance Appeals Tribunal	3	6		1	2	59	145	12	228
Workplace Safety and Insurance Board	4		1		2	10	894	17	928
Labour - Other	2					9	50	2	63
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING									
Building Code Commission					1		1		2
Local Housing Authorities						6	84	7	97
Line Fences Referee	1					2			3
Ontario Housing Corporation							3		3
Ontario Mortgage Corporation							3		3
Ontario Municipal Board						12	18	4	34
Ontario Municipal Employees Retirement Board							6		6
Ontario Rental Housing Tribunal					1	5	73	6	85
Rent Control Programs						8	5		13
Rent Review Hearings Board		4			3		1		8
Municipal Affairs and Housing - Other		1				4	30	3	38
MINISTRY OF NATURAL RESOURCES									
Moose Allocation Advisory Committee							1		1
Provincial Parks Council							1		1
Natural Resources - Other		4	2		2	22	73	6	109
MINISTRY OF NORTHERN DEVELOPMENT AND MINES									
Ontario Northland Transportation Commission							2		2
Northern Development and Mines - Other					1		4		5
MINISTRY OF THE ATTORNEY GENERAL									
Assessment Review Board						6	22	2	30
Children's Lawyer						1	11	1	13
Criminal Injuries Compensation Board	1					4	28	1	34
Crown Attorneys							10	1	11
Family Responsibility Office	24			1	1	40	1,368	17	1,451
Legal Aid Ontario	1			1		2	48		52
Public Guardian and Trustee	1		1	1		6	86	2	97
Attorney General - Other	2					3	61	5	71
MINISTRY OF THE SOLICITOR GENERAL									
Animal Care Review Board							1		1
Coroners' Office						1	6		7
Office of the Fire Marshal						1	2		3
Ontario Board of Parole					1	5	33		39
Ontario Civilian Commission on Police Services (Formerly OPC)							9		9
Ontario Provincial Police	1	1				2	19		23
Probation and Parole Services				1		2	10	2	15
Solicitor General - Other	1				3	2	15	3	24
MINISTRY OF TOURISM									
Metro Toronto Convention Centre Corporation							1		1
MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES									
Colleges of Applied Arts and Technology		1	2			1	27	3	34
Ontario Council of Regents for Colleges of Applied Arts and Technology							1		1
Ontario Student Awards Program	4					9	135	2	150
Training, Colleges and Universities - Other							7		7
MINISTRY OF TRANSPORTATION									
Licence Suspension Appeal Board - MTO						1	21		22
Toronto Area Transit Operating Authority							1		1
Transportation - Other	3	2			2	16	504	16	543
ONTARIO GOVERNMENT - OTHER									
Cabinet Office							10		10
Information and Privacy Commissioner - Other							7		7
Legislative Offices - Other							12	2	14
Lieutenant Governor's Office							1		1
Office of the Premier & Cabinet Office							1		1
Ontario Government - Other						1	10	3	14

VERBAL AND WRITTEN COMPLAINTS AND INQUIRIES AGAINST THE MINISTRY OF CORRECTIONAL SERVICES*

BY SUBJECT MATTER	99-00	98-99	97-98	BY SUBJECT MATTER	99-00	98-99	97-98
Health Care - Adequacy	1217	856	608	Protective Custody	50	13	12
Staff Conduct	655	410	383	Medical Diet	49	29	51
Administration in General	535	576	210	Religious or Life Style Diet	49	44	32
Classification or Transfer within the Provincial System	462	303	398	Intermittent Sentence	47	14	17
Living Conditions	447	425	195	Living Conditions - Smoking	38	32	15
Canteen	403	78	267	Committal / Sentence Calculation	37	38	52
Living Conditions - Food / Diet	390	297	167	Glasses, Eye Care	36	35	20
Personal / Inmate Property	296	170	139	Living Conditions - Cleanliness, Hygiene, Sanitation	35		
Inmate Misconduct	275	124	162	Pre-Release	34	16	30
Issuance / Adjudication	275	124	162	Parole - Community Services / PPO	32	56	56
Yard	215	144	65	Charter of Rights / Human Rights	31	24	24
Living Conditions - Segregation	195	103	50	Living Conditions - Immigration Hold	25	20	26
Administrative Segregation	180	109	146	Medical Appliances / Devices Request	17	26	42
Responses to Inmate Requests	177	126	138	Medical Segregation	16	15	14
Living Conditions - Clothing Size Condition etc.	173	122	46	Bailiffs	15	7	3
Telephone Access / Use	165	61	59	Transfer-Federal Institution	15	10	10
Dental	162	126	109	Electronic Monitoring	14	10	4
Policy / Practice	148	66	63	Living Conditions - Cell Time	14		
Prescription Request	143	79	146	Allegations of Reprisal for Ombudsman Contact	13	1	0
Correspondence	141	89	110	Probation	13	5	10
Inmate Trust Account	132	73	44	Meals at Court	11	8	2
Institutional Discipline - Other than Inmate Misconduct	125	52	35	Inmate Institution Guide	10	2	0
Living Conditions - HVA, Heating, Ventilation, Air	118	58	41	Aids, Hepatitis	8	2	6
Special Needs / Treatment Unit	116			French Language Services	8	1	5
Allegation of Excessive Force	111	77	45	Freedom of Information / Protection of Privacy	5	9	21
Living Conditions - Overcrowding	111	57	38	Open Facility	5	2	3
Classification - Other	95	62	134	Race Related Complaints	2		
Discretionary Program Decisions / Access to Program	95	29	88	Access to Services (Technology) - TTY	1	5	0
Temporary Absence Passes	95	75	112	Death of Inmate in Custody	1	0	0
Ombudsman Access (Letter or Phone)	71	33	11	Restructuring	1	8	0
Lost Earned Remission / Punitive Segregation	67	57	57	Secure Facility	1	2	6
Searches	66	29	22	Custody Review Board / Y.O. Avenues of Appeal	0	3	1
Visiting Privileges	65	34	40	Resident in Treatment Unit / Special Needs Unit	0	15	7
Inmate - Inmate Disputes / Assaults	58	20	22	Second Medical Opinion Requests	0	7	7
Mental Health Care	55	44	35				
Methadone Program	54	49	1				

* As any given complaint may have multiple subject categories assigned to it, these numbers do not reflect the total number of complaints.

- Case Story Highlights
- Formal Investigations
- Corrections
- Informal Resolution

CASE STORIES



Every year in our annual report the Ombudsman presents a collection of case stories to illustrate the type of work we do.



CASE STORY HIGHLIGHTS

These stories were written by our staff to offer a representative sample while protecting the anonymity of complainants. This first section includes this year's case story highlights.

HIGHWAY COMPLAINTS FOCUS ON ACCOUNTABILITY

As a result of numerous complaints concerning the validation and issuance of vehicle permits by the Ministry of Transportation, the Ombudsman initiated an own-motion investigation into the Ministry's administration of those sections of the Highway 407 Act dealing with the collection of tolls and fees. The investigation included consideration of the Ministry's practices relating to vehicle permits and its role and procedures for monitoring the dispute resolution mechanisms of the Act. Ministry officials were interviewed and a review was conducted of the legislation and the Highway 407 Concession and Ground Lease Agreement.

In a letter to the Deputy Minister of Transportation, the Ombudsman stated that no further investigation would be conducted because the practice of license plate denial on the basis of non-payment of tolls, the source of recurring complaints, had been suspended. The letter noted that although the Ministry is not required to monitor any aspect of customer service provided by the highway owner under the Act, it had taken steps to address the issue of customer service with the company, and the number of complaints had decreased significantly as a result.

The investigation revealed that notices sent to users of Highway 407 did not contain information advising them of their right to access the dispute resolution process provided for in the Act. The

Ministry provided information to the Ombudsman that this omission was being corrected and 80,000 individuals who had settled overdue accounts in order to renew their license plates would now have an opportunity to make use of the dispute resolution process. Another 110,000 license plate holders who had been identified for plate denial would not be forced to settle accounts in order to renew. The Ministry also ensured the adoption of a regulation to provide accountability and compliance measures relating to toll collection, including the appointment of an independent auditor approved by the Ministry.

While the Ministry was involved at various stages in the planning and execution of the privatization of Highway 407, another government organization had led the process. The Ombudsman suggested it was unfortunate that neither the legislation nor the Concession and Ground Lease Agreement had contained accountability mechanisms regarding toll collection and compliance. In closing the investigation, the Ombudsman commended the Ministry for responding to complaints in a timely manner and recommended that the lessons learned in this case be shared with other public service agencies involved with similar privatization initiatives as a means of ensuring private sector partners act fairly with the public.



FOUR FINAL REPORTS RESOLVED

In April 1999 the Ombudsman tabled four final investigation reports with the Legislative Assembly. These reports contained conclusions and recommendations that were not accepted by the government organizations involved. The normal practice is for such reports to be forwarded to a Standing Committee of the Legislature for public hearing. When Clare Lewis took office as Ombudsman in February 2000, these reports had not been addressed by the legislature and he initiated a review with each of the organizations in an attempt to resolve the issues raised in the

reports. Following this review process, the Ombudsman wrote to the Chair of the Standing Committee on the Legislative Assembly to report that all four final reports were being withdrawn.

The reports included the case of Ms P and the Ontario Human Rights Commission (OHRC) and three investigations into service provision involving: the OHRC; the Family Responsibility Office (FRO) at the Ministry of the Attorney General; and the Adoption Disclosure Register at the Ministry of Community and Social Services (MCSS).

The Ombudsman reported the following outcomes:

Ms P and the OHRC The Ombudsman successfully resolved this matter. The OHRC agreed to apologize to Ms P for its administrative errors in the handling of her case and provided compensation to her in the amount of \$2,250.

Investigation of the timeliness of birth relative searches conducted by MCSS The Ombudsman reported that the Ministry had responded positively to the recommendations contained in the final report and had allocated an additional \$2.4 million to the program. This money would enable the hiring of additional staff to meet the objective of eliminating the program's backlog waiting list within 18 months.

Investigation of the FRO's processing of its caseload The Ombudsman stated that no practical purpose would be served by bringing forward this report to the Standing Committee because of the passage of

time since it had been prepared. The Ombudsman noted that the Ministry of the Attorney General had allocated increased resources to the program, addressing in part the report's recommendations. He undertook to remain vigilant in monitoring the issues raised in the report through the investigation of complaints that arise.

Investigation of the timeliness of the OHRC's investigative process The Ombudsman stated that no practical purpose would be served by bringing forward this report because the statistical data and other information contained within it does not represent a current picture of the Commission's operations. He undertook to remain vigilant in addressing the issues raised in the report through the investigation of complaints as they arise.

The executive summaries of these reports can be found at Ombudsman Ontario's web site.

In 1998, in response to a significant number of complaints received from inmates in provincial correctional facilities that correctional staff were using excessive force, the Ombudsman initiated an own-motion investigation to determine whether correctional facilities were complying with the policies and procedures of the Ministry of the Solicitor General and Correctional Services relating to the use of force. During this investigation senior management staff at four correctional facilities were interviewed and the individual cases of three inmates who had alleged excessive force at three other facilities were investigated.

Various aspects of the Ministry's use of force and related policies were reviewed, including the use of security control equipment such as chemical mace, protective convex and concave shields, handcuffs and security clothing. Reports written by correctional staff in documenting use of force incidents were also examined to determine whether they fulfilled Ministry requirements.

In one of the individual complaints arising from an incident at a small northern jail, it was alleged by a First Nations inmate that excessive force had been used by several correctional officers when he was restrained and taken to a segregation unit. He reported that he suffered some minor injuries during this altercation and claimed that he had been stomped on and had found it difficult to breathe while being restrained. During the Ombudsman's review of this incident it became apparent that because of non-compliance with the Ministry's policies and procedures at the facility concerning this incident, it was impossible to determine the degree of force used in this

case. For example, although policy required that photographs be taken of any injuries experienced by an inmate, no photographs of the inmate were taken until the facility was notified by Ombudsman staff that this evidence was missing. At that point, photos were taken several days later, making it impossible to directly attribute signs of injury to the use of force. A number of staff reports from those involved in this incident had also not been completed on time, and descriptions of the incident were not sufficiently detailed to comply with Ministry policy. All the staff involved in these examples of non-compliance with policy had recently undergone use of force training conducted by the Ministry.

In a second case, this one involving the use of mace against an inmate at a detention centre in southwestern Ontario, it was determined that the operational manager discharging the mace had not received the training required by the Ministry to be authorized for use of this chemical restraint. Although the Ombudsman did not find that excessive force had been used to restrain this inmate, similar procedural lapses as those in the use of force case were identified. The Ombudsman notified the Ministry of concerns arising from the investigation with respect to the adequacy of the chemical weapons training.

In the third case reviewed by the Ombudsman, it was determined that management at the central Ontario jail where the incident occurred had conducted their own internal investigation, and a staff member had been disciplined as a result. Consequently, the Ombudsman's review of the incident focused on the apparent loss of a number

INITIATIVES UNDERWAY TO OVERHAUL CORRECTIONAL USE OF FORCE POLICY

of documents from the Ministry's records required by its use of force policy. After several months of persistent inquiries by Ombudsman staff, copies of the missing documents, containing a description of the incident by facility staff, were located.

As a result of this investigation involving the three complaints and other issues of concern, the Ombudsman presented a tentative report to the Ministry with a number of recommendations: that it take immediate steps to ensure compliance with its use of force and related policies; that it clarify for Ministry staff the responsibility for taking photographs following incidents in which injury occurs; that the role of the Ministry Anti-Racism Coordinator be clarified to all facility staff; and that it take steps to ensure that all staff receive adequate ongoing training in the use of force and security control equipment, and related Ministry policies and procedures.

The Ministry responded by informing the Ombudsman of a number of initiatives it was undertaking to address these recommendations. These included the introduction of a use of force checklist to be used by facility managers to

ensure that all procedural requirements are met; an improvement to existing training programmes; and the development of an evaluation mechanism for this training. The Ministry reported it is revising its use of force and related policies, and will distribute an information package to address compliance and procedural methods in all facilities. It is also reviewing the requirements for the taking of photographs and will enforce a practice whereby photos must be taken as soon as possible following an incident involving injury.

It was also apparent through the course of this investigation and from other interviews conducted by Ombudsman staff that the role of the Ministry's Anti-Racism Coordinator had not been sufficiently integrated and clarified across the Ministry. As a result, procedures for reporting incidents involving racial minority inmates were not well-known or well-understood by staff in the Ministry's correctional facilities. The Ministry notified the Ombudsman of steps it is taking to ensure the role of the Anti-Racism Coordinator is better integrated and understood across correctional facilities.

SEGREGATION
PRACTICES
LACKING
CONSISTENCY



The Ombudsman received a large number of complaints from inmates who were being held in segregation units for administrative, medical and protective custody reasons at a number of provincial correctional facilities. Inmates alleged poor and unhygienic living conditions and denial of entitlements such as daily exercise, regular showers and access to personal hygiene products. In a number of cases, it appeared that policies of the Ministry of the Solicitor General and Correctional Services were not being followed at individual facilities, where some inmates were not being examined by health care staff upon admission to or release from segregation. In response to these complaints, the Ombudsman initiated an own motion investigation, in which site visits to four facilities were conducted.

This investigation confirmed that Ministry policy generally recognizes the importance of ensuring a humane correctional environment, and that inmates are to be provided with entitlements such as personal hygiene facilities and opportunities for outdoor exercise. Ministry policy also emphasizes the necessity of proper record-keeping, particularly in segregation units. The Ministry informed the Ombudsman at the outset of the investigation that facilities' Standing Orders are designed to set guidelines as to how staff are to implement Ministry policy. However, a review of the Standing Orders of three of the four facilities

visited during the investigation showed that this policy was not being applied.

The state of documentation reviewed was such that it was impossible to verify whether inmates in administrative segregation were receiving entitlements such as showers, daily exercise or access to personal hygiene products. Segregation records were also not being kept in accordance with Ministry policy, and were often incomplete, inconsistent, or in some cases, illegible. Inconsistencies were identified across the facilities reviewed. In some locations, for example, inmates are permitted to wear shoes while in segregation or to retain personal cell property; in other facilities, they are not. In some cases, facilities were clearly in contravention of the policy requiring that inmates be seen by health care staff upon admission to and release from segregation. It also became evident that no in-service training was taking place with respect to record-keeping practices.

The Ombudsman was concerned that the combination of inadequate in-service training, poor record-keeping and the inconsistencies noted might reflect a serious underlying failure to provide a humane correctional environment, as required by law and Ministry policy. The Ministry was notified of the Ombudsman's findings and was urged, in view of the importance of preserving the dignity and well-being of inmates, to take

“The Ombudsman received a large number of complaints from inmates who were being held in segregation units for administrative, medical and protective custody reasons at a number of provincial correctional facilities.”



steps to ensure compliance with its policies pertaining to living conditions in segregation units.

The Ministry acknowledged that while a number of mechanisms were in place to ensure compliance with Ministry policy and relevant legislation, lapses in compliance could occur. The Ombudsman was informed that a recent re-organization resulting in the addition of Regional Directors would ensure close monitoring of compliance. The Ministry had also appointed a Director of Staff Training to

determine staff training needs and ensure appropriate training. In addition the Ministry is in the process of revising its Policy and Procedures Manual, and will address record-keeping and other concerns identified in this investigation. The Ombudsman accepted the undertakings of the Ministry and closed the investigation, while continuing to monitor complaints received from inmates involving similar issues.

In 1998 the Ombudsman decided to initiate an own-motion investigation into the handling, recording and storage of inmate personal property in provincial correctional facilities, as a result of a large volume of complaints received about property loss in preceding years.

While inmates are in custody at a Ministry of Correctional Services facility, the facility staff are responsible for ensuring proper recording and safekeeping of personal property such as that brought in to the facility by inmates upon admission. When the Ministry has a documented responsibility for such property, it is liable for compensation to an inmate if the property in its care is lost. Among the complaints received by the Ombudsman, some inmates reported the loss of their personal property during transfer between correctional facilities, or upon release when they discovered items missing from their stored property. In other cases, inmates who were seeking compensation were being advised that because the property had not been recorded on the Personal Property Declaration form, there was no evidence that it had been brought into the facility, and no compensation would be given.

During the Ombudsman’s investigation, the property-handling practices of a number of correctional facilities were reviewed, along with several individual cases. While the individual cases were all successfully resolved, the investigation identified a number of situations in which there appeared to be opportunities for property to be lost or for disputes to arise. For example, some

inmates arrested at the airport might bring in large amounts of property in suitcases and while their property would be searched for security reasons, the volume might mean that not all of the property would be itemized. In other instances, for example when an inmate had to be moved quickly by staff to a segregation cell, the cellmate might be asked to pack the property of that individual, creating an opportunity for a dispute as to the ownership of the property. The form used to document incoming inmate property also did not appear to provide sufficient space for a large number of items, or for an adequate description of individual items. In addition, ambiguities on the form that did not clearly specify for example, whether an inmate had brought spectacles or dentures into the facility.

Because the Ombudsman recognized that loss is often likely to occur when large quantities of property are handled in busy Admission and Discharge areas that process large numbers of inmates, the Ombudsman decided to report preliminary findings of the investigation to the Ministry. As a result of discussions with Ministry staff, the Ministry undertook to review the adequacy of the forms used to document inmate property. It also undertook to update and improve its policies and procedures with respect to the handling of inmate property, and to ensure that facility managers are complying with these. In light of the steps taken by the Ministry to address the Ombudsman’s concerns, the investigation was concluded.



PROCESSES
TO HAVE
LOST INMATE
PROPERTY
IMPROVED

**COMPANY RECEIVES RADIO
LICENSE AND CHEQUE FROM
MINISTRY**

Company R owned an AM radio station and had applied to Industry Canada to convert its AM license into an FM one. In such circumstances, anyone wanting to operate a frequency in the FM band of 88 - 92 is required to obtain a letter of non-objection from the provincial government. Company R was advised by its engineering consultant to write to the Ministry of Economic Development, Trade and Tourism. A letter of non-objection was received from that Ministry and the company proceeded with the Industry Canada application process.

They were later notified of a date for a hearing on the application to be held by the Canadian Radio and Telecommunication Commission (CRTC). But just prior to the hearing date, the province's Minister of Education and Training wrote a letter of objection to Industry Canada. During an investigation into these events by the Ombudsman's office, it became apparent that the Minister of Education and Training was asked by an MPP to intervene on Company R's application on behalf of the owner of another radio station. As a result of the letter from the Ministry of Education and Training, Company R was given less than forty-eight hours to inform Industry Canada of why its application should be allowed to proceed at the CRTC. With the assistance of legal advice, Company R succeeded in having its application go to hearing, but no decision was rendered because of the existence of contradictory letters from two different provincial Ministries.

Following the CRTC hearing, Company R's lawyer wrote to Industry Canada pointing out that

the objections made on behalf of the second radio station (a low-power tourist information outlet) were not valid, as this station was not entitled to the same protection as other radio stations. Industry Canada then wrote to the Minister of Education and Training seeking clarification of its position in light of the information provided by Company R. In response, the Ministry rescinded its letter of objection and the CRTC eventually approved the license application for Company R.

Following approval of its license, the company approached the Ministry with a claim for compensation, arguing that its intervention had cost the firm approximately \$12,000. When the Ministry refused, the company complained to the Ombudsman. Based on the evidence gathered during an investigation, the Ombudsman issued a tentative report to the Ministry concluding that it had failed to verify the contentions of the second radio station. Because of this, the Ministry had inappropriately submitted a letter of objection, an action that was unreasonable under the circumstances. The report recommended that Company R receive compensation in an amount reflecting its additional costs incurred as a result of the ministry's conduct, and that the Ministry develop a written policy with respect to matters pertaining to FM allocation. The Ministry accepted the Ombudsman's report, compensated Company R in the amount of \$12,000, and issued an apology for its actions. It also undertook to adopt a written policy so that in future, all matters pertaining to radio frequency application are referred to the Ministry of Economic Development, Trade and Tourism.

**MINISTRY
APOLOGIZES
AND COM-
PENSATES
FOR ERROR**



Mr. N complained to the Ombudsman about an outstanding claim he had with the Employment Practices Branch of the Ministry of Labour for money owed to him by his former employer. An Order to Pay had been issued to the employer by an Employment Standards Officer at the direction of the Officer's manager. The employer had appealed this Order to Pay and the matter was before an adjudicator with the Office of Adjudication, Ontario Labour Relations Board (OLRB).

During an investigation by Ombudsman staff it was learned that the Employment Standards Officer had rescinded the Order to Pay on the eve of a hearing before an OLRB adjudicator. This action was evidently taken out of concern that the Order had been issued at the direction of a manager and would therefore be declared invalid because OLRB rules require that it is an officer

who must make the determination to issue such an Order. Mr. N was not given any explanation for the rescinding of the Order.

Based on the information gathered during the investigation, the Ombudsman sent a report to the Ministry with a tentative conclusion that the failure of the Employment Standards Branch to properly administer Mr. N's claim was unreasonable. The report recommended that the Ministry apologize to Mr. N for its error in the administration of his claim and provide him compensation of \$2,500 in recognition of the frustration he experienced and the time and energy he expended as a result of the failure to administer his claim properly. Following a meeting with Branch officials, the report and its recommendations were accepted by the Branch. Mr. N subsequently received an apology from the Deputy Minister of Labour and a cheque for \$2,500.

FORMAL INVESTIGATIONS

The following cases represent investigations in which the complaint was resolved with the assistance of the Ombudsman, or the outcome was non-support of the complaint. The cases resolved were the result of a variety of complaint resolution techniques employed by Ombudsman staff.

Mr. K receives Ontario Disability Support Plan (ODSP) benefits. He advised our office that in addition to his monthly benefits, he receives a medical transportation allowance in the form of a bus pass to attend medical and counselling appointments. He reported that although he has received this transportation allowance for the past three years, there were four months (Sept-Dec '98 and Jan-Feb '99) for which he was not reimbursed for bus pass costs. Mr. K indicated that he used his benefit allowance to purchase the pass, which caused him financial hardship given his limited income. He stated that he provided all medical and financial eligibility information to the ODSP office, including proof of purchase of the bus passes. He requested our assistance in determining why the allowance was withheld, and in seeking reimbursement.

A review of the ODSP policies indicated that travel & transportation costs are covered to attend medical appointments, rehabilitation and psychological counselling, and that a transportation pass may be issued if the person is required to attend ongoing medical appointments. Verification is required to support any requests for travel and transportation costs. ODSP staff advised that the transportation allowance is administered by the municipality.

In Mr. K's case ODSP reported that the September '98 bus pass monies had been issued to Mr. K but he failed to cash the payment cheque within 30 days. A stop-payment had been issued on the cheque by the municipality because it was not cashed within this period. Bus pass monies are authorized by the municipality on a six-month basis, and renewed based on the submission of further medical and financial eligibility information. Mr. K's transportation allowance then expired in December '98 and the municipality did

not receive Mr. K's renewal submission until March 1999. As a result, he was deemed ineligible for the transportation allowance for January and February 1999. The ODSP advised that the municipality had been contacted regarding Mr. K's complaint, but it was unwilling to provide retroactive transportation benefits to him.

An Ombudsman Investigator provided Mr. K with a summary of the information obtained from the ODSP. He stated that he received the September '98 transportation allowance cheque and cashed it approximately one month later. After the stop-payment was issued, his financial institution then took monies from his bank account. Mr. K was aware that eligibility is determined every six months but said he was unaware that a six-month time frame had expired and that he relied on the ODSP to send him the eligibility renewal application. He also noted that he changed residence in December '98 and had immediately provided his change of address to his ODSP office.

In response to further inquiries, the ODSP reported that it mails transportation allowance renewal forms two months in advance of the expiry of any approved six-month eligibility period. This ensures the recipient has sufficient opportunity to obtain and submit information required to maintain the continuation of the transportation allowance. Because of Mr. K's change of address, his file had been assigned to a different ODSP office. During our review of his case, it became apparent that his file was not flagged to indicate that Mr. K was in receipt of the transportation allowance. It appeared that this omission led to a delay in Mr. K receiving the transportation renewal forms, and the subsequent denial of the transportation allowance for the months of January and February 1999. Mr. K did not receive the renewal application until March 1999.

ODSP, MUNICIPALITY COMPENSATE FOR ERRORS





“Mr. G complained to our office that he had applied for a faculty position at a community college and that the college had conducted a biased and unfair competition.”

The Ombudsman Investigator contacted the municipality to relay Mr. K’s contentions as well as the information obtained from the ODSP office. Because it had previously approved Mr. K’s transportation allowance for the six-month period of July to December 1998, it agreed to reimburse Mr. K for the September and December 1998 bus

pass. In further consideration of their delay in sending Mr. K the renewal package, the ODSP also determined that Mr. K’s transportation allowance would be granted for the months of January and February, 1999. Mr. K agreed this represented a successful resolution of his complaint.

MAXIMUM
60

BANK
CONFIRMS
SPEEDING
TICKET PAID

Ms P contacted the Ombudsman with a complaint regarding the actions of the Ministry of the Attorney General. She explained that in May 1996, she received a speeding ticket from the Ontario Provincial Police in the amount of \$95, which she paid with her Mastercard. When she received her monthly statement, she contacted Mastercard to confirm that although the statement did not refer to the payment of the speeding ticket, this item was in fact included on the list of charges. Several months later, Ms P received a letter from the Ministry of Transportation advising her that her driver’s license would be suspended indefinitely because she had not paid the speeding ticket. She also received letters from a collection agency.

Ms P placed numerous calls to the Ministry of the Attorney General in an effort to rectify the problem. She also requested reimbursement for

out of pocket expenses resulting from having to take taxis to work for six days, numerous long distance telephone calls and faxes to a number of organizations. She estimated these costs to be \$470. Although the Ministry agreed its records were in error and offered an apology, it would not agree to any reimbursement of funds.

An Ombudsman Investigator contacted the Ministry of the Attorney General on behalf of Ms P and provided the Ministry with transaction statements indicating that the Bank of Montreal had properly fulfilled its obligation on Ms P’s account. Following further discussion with Ministry staff and a re-consideration of the matter, the Ministry offered Ms P \$400 to resolve her complaint. She indicated the offer was acceptable to her and that she was pleased with the resolution.

COLLEGE CHANGES HIRING POLICIES

Mr. G complained to our office that he had applied for a faculty position at a community college and that the college had conducted a biased and unfair competition. He also alleged that the review of his complaint about the competition by the college’s Board of Governors was inadequate.

Mr. G indicated that he had held several sessional appointments at the college over a number of years. He was given notice that when his last sessional appointment expired, he would not receive any further appointments and that there was no opportunity for a full-time position. A month later, a permanent position was advertised. He applied for the position but believed that he would not get an opportunity for a fair competition based on his past experience with the hiring man-

ager. He claimed that it was well-known at the college that another of the candidates, who had been a sessional instructor for a much shorter period of time than he had, was a friend of the hiring manager and would win the competition. Because of this, Mr. G sought and obtained the assurances of the vice-president of the college that the competition would be conducted fairly. He was granted an interview but was not the successful candidate. The candidate hired was the person alleged to be a friend of the hiring manager.

An investigation by our office found that some of the college’s recruitment policies and procedures were not followed during the competition and that certain policies were lacking in providing specific guidelines. These concerns were brought to the

attention of the President of the college who agreed to implement a number of changes. The Ombudsman was satisfied that the President's undertakings addressed the policy issues raised by our investigation. Despite the problems identified with the college's recruitment procedures, the investigation did not find evidence to substantiate Mr. G's contention that the competition was

biased or unfair. In addition, the Ombudsman found that the Board of Governors' review of Mr. G's complaint was consistent with standard practice in the field throughout the province and was conducted in an acceptable manner. Mr. G accepted these findings and was pleased to hear there would be changes in the human resource practices at the college.

Mr. T, a support payor, contacted the Ombudsman after trying unsuccessfully to resolve his complaint against the Family Responsibility Office (FRO). Mr. T's bank would not advance him a loan to purchase a new home when it learned he had a poor credit rating. His poor rating resulted from a report filed by FRO when its records showed he was several months behind in his support payments. Mr. T maintained that he was not in arrears and said that several months earlier he and his ex-spouse had notified FRO in writing that they no longer wanted FRO to enforce their support order. Mr. T had been making support payments directly to his ex-spouse. He and his lawyer then wrote several letters and made follow-up phone calls to FRO in an attempt to resolve this problem.

Eventually, FRO staff advised him that an administrative error had been made and that he was not in arrears. However a short time later, FRO mistakenly notified the federal Department of Justice that he was in arrears and as a result, federal funds owing to Mr. T were intercepted by FRO and sent to Mr. T's ex-spouse. He was also notified by the federal government that he would be required to pay an administrative fee for processing FRO's Support Deduction Notice to

collect the arrears owing on his account. Once again Mr. T and his lawyer wrote to FRO and were subsequently informed that the account had not been corrected.

Although his ex-spouse returned the federal funds to Mr. T, he was dissatisfied with the manner in which FRO had handled his file. He contended that because FRO failed to process his and his ex-spouse's request to withdraw from the plan, he encountered problems negotiating a loan and had incurred unnecessary expenses, including legal fees and lost time from work.

In response to an Ombudsman's notice of intent to investigate Mr. T's concerns, FRO offered an apology for the inconvenience caused to Mr. T and agreed to reimburse him the administrative fee charged by the federal government. It also confirmed that it had withdrawn the federal Support Deduction Notice and that its report to the credit bureau had been deleted. With respect to Mr. T's claims for legal fees and lost time from work, FRO offered to review his claim once he submitted invoices. As Mr. T and FRO had agreed on a process to resolve this aspect of the complaint, Mr. T's file was closed. FRO has recently reported that it agreed to pay Mr. T's invoices.

FRO
REIMBURSES
FOR COSTLY
ERRORS



Ms A contacted Ombudsman Ontario on behalf of her blind 91 year old father who, as a result of physical and mental deterioration, was living in a long-term care facility. After a colostomy in 1978, her father had been approved under the Assistive Devices Program (ADP) of the Ministry of Health and Long-Term Care for a grant to pay for colostomy supplies. A grant was awarded twice a year and until 1995, had to be applied for annually.

In 1995 the administration of this program was changed and it became a permanent grant. Applications were to be sent to previous grant recipients. On receipt of a completed application, recipients were to receive benefits every year until

supplies were no longer needed or the recipient had died. ADP's records showed that the last payment to Ms A's father had been made in June 1995.

In April 1999, Ms A exercised her Power of Attorney and applied to ADP on behalf of her father for grants for the four year period covering 1996-99. Since her father was in a long-term care facility in 1999, ADP provided a grant entitlement of \$400 every six months. However, ADP denied the request for retroactive payments for '96, '97 and '98 because they had no record of her father's 1995 application under the changed program. ADP had cancelled the grant in cases in which the recipient had not submitted a renewal

MEDICAL SUPPLY COSTS
APPROVED RETROACTIVELY

application. In addition, Ms A was advised that ADP policy does not allow for reinstating expired applications or backdating applications.

It was Ms A's contention that the denial of retroactive payments was unreasonable because it unfairly penalized her infirm, elderly father and that ADP was further being unreasonable in expecting such persons to respond to internal program changes. She also complained that a program designed to assist persons with special

needs does not have a policy to allow staff discretion in dealing with such persons.

Following contact by an Ombudsman Investigator, the Ministry reviewed the information provided by the complainant and concluded that the circumstances as outlined warranted further consideration. The Ministry then offered to resolve Ms A's complaint by approving retroactive payment for medical supplies based on the pharmacy receipts. Ms A accepted the Ministry's offer as resolution of her complaint.



THREE PROGRAMS WORK TOGETHER TO SOLVE PROBLEMS

Ms X brought a complaint to the Ombudsman on behalf of her sister regarding actions of both the Office of the Public Guardian & Trustee (the PGT) and the Ministry of Health. Her sister, Ms Y, had been a long-term client of Family Benefits (a program of the Ministry of Community and Social Services), but then was hospitalized for a short time in a psychiatric hospital. The PGT took over management of her affairs and Ms Y was moved to a residence licensed under the Ministry's Homes for Special Care program.

Ms X and other family members became concerned about Ms Y's living situation and the PGT's handling of her affairs. Consequently, Ms X decided to apply to become her sister's statutory guardian. In addition, steps were taken to have Ms Y assessed by the local community care access agency and to apply to alternate residences. Just after this assessment process was completed and Ms X was officially notified by the PGT that she was the statutory guardian, a vacancy became available in a private nursing home to which the family had applied. In order not to lose the placement, Ms Y moved within a couple of days, providing short notice to the home for special care.

After the move, Ms X contacted an official in the Long Term Care branch of the Ministry. Arrangements were made for her sister to be temporarily covered (her benefits "topped up") for the private nursing home per diem until she could be reinstated on Family Benefits. In the interval, the new Ontario Disability Support Program (ODSP) had replaced Family Benefits and so the Ministry had to contact the Ministry of Community and Social Services with a referral for Ms Y, for her approval under the new ODSP program.

Without checking that this process had been completed, Ms Y had extensive dental work performed. The bills for this work were then rejected by the Ministry of Community and Social Services as Ms Y had not been approved for coverage. Eventually, her sister was interviewed for the

ODSP, an application was taken and she was approved. Benefits were backdated to the maximum allowable time of four months. However, Ms Y thought it was unfair that her sister was left with the outstanding dental bills.

In addition, a large bill of over \$4,000 was forwarded by the Ministry as Ms Y's outstanding account from her stay in the home for special care. Again, Ms X thought this was unreasonable, given her sister's limited resources and the fact that no such debt had been declared when the PGT closed out the account and transferred responsibility for Ms Y's affairs to her sister.

Following a number of inquiries by Ms Y with the PGT and the Homes for Special Care accounting department, she became frustrated and contacted the Ombudsman's office. An Ombudsman Representative assisted her in getting a full statement of accounts and having a review conducted of this statement, resulting in the bill being reduced to under \$2,000. As no further resolution could be achieved beyond this, a formal notice of intent to investigate Ms Y's complaint was sent by the Ombudsman to both the PGT and the Ministry.

As a result of the information set out in the Ombudsman's notice and subsequent discussions with Ministry staff, the Ministry agreed to forego collection of the outstanding account. Ms X was asked to pay for those few days following her receipt of the benefits cheque from the PGT and before her sister was moved from the home for special care.

Ms X had also questioned how her sister's finances were managed by both the PGT and the Ministry. Our office was able to provide some information in this regard: that she was only entitled to a monthly stipend (or Personal Needs Allowance), while all her basic needs were covered by the home. We were also able to advise her of a number of system-wide considerations. These included that the Ministry indicated it had established a regular billing system for clients dealing with the PGT and that the PGT was also

“Ms X brought a complaint to the Ombudsman on behalf of her sister regarding actions of both the Office of the Public Guardian & Trustee (the PGT) and the Ministry of Health.”



looking at implementing such a system, to avoid a recurrence of the dilemma in which Ms Y found herself. Finally, both the PGT and the Ministry indicated in their response to the Ombudsman’s notice of intent to investigate that they would be entering into discussions that would include the Ministry of Community and Social Services to streamline their systems and the handling of the affairs of the approximately 1,700 clients for whom they shared responsibility.

With respect to the dental bill, our office also contacted the Ministry of Community and Social Services. There was no record of the Long Term Care staff having made the initial referral for ODSP. Therefore, it was suggested that Ms X might want to appeal to the Director and then the Social Benefits Tribunal to request her sister’s eligibility be backdated beyond the four months, thereby allowing the dental bills to be covered.

Ms M contacted the Ombudsman about the processing of her application for benefits under the Ontario Disability Support Program by the Ministry of Community and Social Services. She complained that because the Ministry was responsible for an administrative delay in processing her application for benefits, they were wrong not to determine that her effective date for eligibility for benefits should be backdated to the month when her initial application was completed. She was also of the opinion that the Ministry’s internal review was unreasonable in not determining that her eligibility for income support began on the day her application was completed, in accordance with Ministry policy.

Following receipt of the Ombudsman’s notice of intent to investigate, the Ministry reviewed Ms M’s file and determined that she had submitted the necessary medical information and that she was a disabled person eligible for benefits under the program. This review concluded that the effective date of her eligibility for income support was seven months earlier than had previously been established. The Ministry then issued Ms M a cheque for retroactive benefits and sent her a letter of apology for the hardship she experienced as a result of the error made in processing her application. In light of this action, Ms M’s complaint was resolved and her file was closed.

MINISTRY
ISSUES
APOLOGY
AND CHEQUE



In last year’s annual report, the Ombudsman reported on delays on the part of the Health Professions Appeal and Review Board in processing requests for a review of decisions made by health profession colleges. That investigation showed that it would take 18 to 20 months for a review request to be heard and that the Board’s inventory of complaint reviews had continued to age since March 1998, despite the Board’s efforts to reduce the backlog of cases awaiting a review or a decision. It also showed that the Board had received more complaints in 1999 than the previous year, resulting in part from legislative changes. The Board’s budget and staffing had only increased marginally and the number of Board members remained unchanged since

March 1998. The Ombudsman had concluded that the Board was not in a position to deal effectively with the volume of complaint reviews within its existing operating environment, and recommended it take all necessary steps, including requesting additional resources, to ensure it is able to process complaint reviews in a timely manner. Because the Ministry of Health is responsible for providing the Board with its resources, the Ombudsman also recommended the Ministry urgently take all necessary steps to ensure that the Board has the capability and the resources to process complaint reviews in a timely manner.

The responses from the Board and the Ministry to this investigation indicated that a number of initiatives had been or would be taken to ensure

HEALTH PROFESSIONS
BOARD IMPROVES



“It appeared the overpayment assessed against Mr. W had been the result of Ministry miscalculations relating to the earnings of Mr. W’s spouse.”

that complaint reviews are processed in a timely manner, including the provision of additional resources. In addition, the Ministry agreed to provide the Ombudsman with an update on the status of the various initiatives in six months time. Information subsequently provided indicates that the budget and the resources available to the Board have been increased. There has been an increase in funding, an increase in support staff, and an increase in Board membership to the legal maximum. These increases have had a significant impact on the Board’s ability to process more cases in a more timely manner. The information

shows that the Board has doubled the number of reviews conducted, and the length of time taken to conduct reviews has been reduced to 15 months, with a further reduction anticipated. The number of decisions issued has also increased significantly.

Because the information provided indicates that both the Board and the Ministry remain committed to further reducing the delays in the complaint review process, the Ombudsman decided that no further investigation of this matter was necessary. The Ombudsman will continue to review individual complaints as they arise.



**DISABILITY
OVERPAYMENT
ADJUSTED**

The Family Benefits program of the Ministry of Community and Social Services provided benefits to people who are disabled or considered permanently unemployable. The Ombudsman received a complaint about an overpayment from Mr. W, whose entitlement was based on his disability. While he was receiving benefits, his spouse had been working and her irregular hours had, according to the Ministry, contributed to an overpayment to which he was not entitled. The Ministry also advised him he had received an additional overpayment from a retroactive payment of Canada Pension disability benefits. He was informed that when a person has received Family Benefits during a period that is covered by such a retroactive payment, the Ministry requires that the Family Benefits for that period be repaid.

Mr. W complained that he had always reported his spouse’s earnings. He contended that he had signed an agreement with the Ministry and federal government so that the federal government could repay the Ministry directly for any overpayment caused by the retroactive Canada Pension disability entitlement.

An Ombudsman’s investigation revealed that while the federal government had reimbursed the Ministry directly for most of the Family Benefits overpayment resulting from the retroactive disability entitlement, it appeared that some money paid to him directly by the federal government should have been sent to the Ministry. The

Ministry’s position was that it was obliged to recover this money from Mr. W, given that the error was not the Ministry’s fault.

However, a recalculation of Mr. W’s benefits entitlement was initiated in response to the Ombudsman’s inquiries and this resulted in a reduction of the overpaid amount by almost a thousand dollars. It appeared this part of the overpayment assessed against Mr. W had been the result of Ministry miscalculations relating to the earnings of Mr. W’s spouse. Upon further review of the case and taking into account these corrected calculations, the Ombudsman accepted the Ministry’s position regarding recovery of the remaining overpayment.

The Family Benefits program no longer exists. Since June 1998, sole-support parents who need financial assistance may receive benefits through Ontario Works, which is administered by municipalities. People with disabilities who need financial assistance still deal with the Ministry, through its Ontario Disability Support Program (ODSP). Recipients under ODSP may still supplement benefits with employment earnings, as the Ministry’s Supports To Employment Program continues. The Ministry advised the Ombudsman that calculations involving earnings for ODSP recipients are now computerized. Any miscalculations experienced by Family Benefits recipients, such as those affecting Mr. W resulting from human error should no longer occur.

Mr. A, who resided in rent-geared-to-income housing, contacted the Ombudsman's office because he felt that the policy of the Ministry of Municipal Affairs and Housing of including a percentage of the value of his Registered Retirement Savings Plan (RRSP) as gross income was unreasonable.

Based on Mr. A's complaint, the Ombudsman asked the Ministry to review its policy on RRSPs as it affected rent-geared-to-income housing. Because the Ministry responded that it was in the process of reviewing this policy, the Ombudsman decided that further investigation was unnecessary and Mr. A's file was closed. The Ombudsman asked the Ministry to advise our office of the outcome of its review.

Shortly thereafter, the Ministry advised the Ombudsman that as of September 1, 1999, the Ministry would treat locked-in RRSPs in the same way it treats company pension plans. This means that any interest earned on the RRSP will not be included as income for the purpose of calculating rent-geared-to-income payments.

Although Mr. A had moved out of the rent-geared-to-income housing during the investigation, he was satisfied with the change in the Ministry's policy. The Ombudsman wrote to the Deputy Minister to acknowledge the change and to express appreciation that, as a result of Mr. A's complaint, the Ministry had expedited its review of the policy.

HOUSING
INCOME
POLICY
CHANGED



Mr. B, who lives in a city in southern Ontario, complained to the Ministry of Natural Resources about the trapping activities of his neighbour. Dissatisfied with the manner in which the Ministry had responded to his complaint, Mr. B asked for the assistance of the Ombudsman's office.

Following an investigation, the Ombudsman did not find that the Ministry's response to Mr. B's complaint had been unreasonable. The Ministry had provided the Ombudsman with a copy of its Complaint Management Process, which came into effect on April 1, 1999. This process provides written guidelines concerning complaint-handling procedures, including documentation, monitoring and the evaluation of complaints. In a closing letter to Mr. B, the Ombudsman noted that the

Ministry's process is designed to respond to the type of complaints he had made to the Ministry concerning the adequacy of service provided to the public.

The Ombudsman commended the Ministry for developing its Complaint Management Process and offered suggestions on its internal complaint resolution system for the Ministry's consideration. The Ministry responded by stating that its complaint-handling process would be revised to reflect this advice. Specifically, the Ministry noted that it would establish a standard time frame for investigations and make this known to the public, assign staff to be responsible for the complaint-management process, and provide an evaluation framework to ensure complaint trends are analyzed for follow-up action.

COMPLAINTS
POLICY REVISED



CORRECTIONS

The following case stories are a sample of issues raised by complaints to the Ombudsman from within the province's correctional system. Protocols have been established between the Ombudsman and the Ministry of Correctional Services to facilitate more effective complaint resolution services and to handle race-related complaints from inmates.

TRANSFER AVOIDS TIME ON THE STREET

Mr. A, a 22 year old inmate, called our office to ask for assistance in helping him to get a transfer from Ottawa-Carleton Detention Centre (OCDC) to Sarnia Jail, which is closer to his hometown. This inmate was to be released a month later and inquired why he was sent so far from his home town, 800 km away, when he was transferred from Millbrook to OCDC. Before being in Millbrook, he was detained in the Sarnia Jail and then sent to the Metro Toronto East Detention Centre (MTEDC). Because this facility was under renovation, it was decided to transfer inmates to Ottawa-Carleton Detention Centre via Millbrook Correctional Centre.

An Ombudsman Representative made an initial call to the Classification Officer at OCDC who confirmed that inmates were being transferred out of MTEDC because of ongoing renovations. He agreed that Mr. A should not have been sent to OCDC and suggested this mistake occurred because the Transfer Officer did not consider his city of origin. He agreed to speak to Mr. A and attempt to accommodate him by searching for a release location closer to home. He also suggested that the Classification Officer at MTEDC might have been overwhelmed with the volume of transfers from MTEDC to other facilities.

A few days later, the Classification Officer called to advise that Mr. A had been denied the transfer to Sarnia because of overcrowding at that facility. At a meeting in our office to review the inmate's concerns, it was established that he wanted to be transferred to Sarnia prior to his release because this would allow him to apply for welfare immediately. If Mr. A remained at OCDC he would have to travel to Sarnia, arriving in the middle of the night. Because his release date was on a Friday, this would mean he would spend the weekend on the street until the welfare office opened on Monday.

The Ombudsman Representative called the Classification Officer to ask if it would help to appeal to the superintendent in Sarnia. He agreed this might help and also initiated a meeting with his own superintendent, who then contacted the superintendent at Sarnia. The Superintendent at Sarnia was very responsive to the original request. He said that he was away when the transfer decision had been made and undertook to fax new transfer documents to the Superintendent at OCDC. These documents were sent right away and the inmate's transfer to Sarnia was quickly approved.



ACCESS TO SHOWER APPROVED

A man with a double amputation serving an intermittent sentence called our office for assistance. He had been waiting three days for a response to his request for accommodation in taking a shower. He reported that he was required to shower in the Admit and Discharge area which he did not think was appropriate because it was not accessible for him. He had put in a request to speak with the Operational Manager, but had not received a response.

An Ombudsman Representative called the jail and was told by an Operational Manager that there was a shower on the range for the inmate to use. It was explained that the inmate could not reach the knobs for this shower and he required a chair to be placed in the shower for his accessibility. The next week the inmate called and said that a chair had been placed in the shower on his unit for his convenience and that he was no longer having any problems.

An inmate called to say that because his broken jaw is wired shut, he requires the use of two pillows to prop up his head, and that he could not receive these at his institution. He also said that the timing of his medication was such that during the night he could not sleep because of pain and that he was unable to eat because he could not get his food pureed. He complained that he was not receiving adequate health care.

An Ombudsman Representative called the facility's Health Care Coordinator who said that pillows were in short supply and suggested that the inmate roll up the end of his mattress and support

his head that way. As an alternative, she suggested the inmate might be able to get another blanket to use. A further call to an Operational Manager resulted in the inmate receiving an extra blanket. A memo was also sent to ensure that the extra blanket would not be confiscated during a search. The staff also agreed to change the inmate's medication schedule to four doses a day, with the last one being at 10:30 p.m., enabling him to sleep through the night. The Health Care Coordinator checked with the Food Service Coordinator and agreed to ensure that the inmate received a full fluid diet.

INJURY AND
MEDICAL
NEEDS
ADDRESSED



An inmate whose parole had been revoked discovered upon re-admission to a correctional facility that he had forfeited his earned remission and called our office for assistance. An Ombudsman Representative spoke with the Institutional Liaison Officer (ILO) at the facility who reviewed the situation by examining the audio-tape of the inmate's original parole hearing, checking the Ontario Board of Parole (OBP) file, and reading the material from the inmate's case review meeting and post-suspension report. As

a result of this review, the ILO concluded that a procedural error was made at the original parole hearing.

The officer then wrote to the inmate and referred to OBP policy stating that "The Board is responsible for informing the inmate that remission credits are forfeited when parole is accepted and remission credits may not be recredited if parole is revoked." As a consequence of this policy not being followed, the officer offered the inmate a new parole hearing.

PROCEDURAL LAPSE LEADS
TO PAROLE HEARING

The Ministry of Correctional Services' Adult Institutions Policy and Procedures manual states that if an inmate misbehaves and a prosecution is commenced by the Crown Attorney, the Ministry is required to discontinue all internal disciplinary action relating to the alleged misconduct. This policy means that once the Crown lays a charge, an inmate cannot receive an internal disciplinary action for the same offense.

An inmate complained to our office that he lost fifteen days of earned remission as a consequence of a misconduct and was then subsequently charged criminally for the same offense. The institution added the fifteen days to the inmate's release date, even though he had been charged by the Crown.

An Ombudsman Representative contacted the Regional Director at the Ministry to request a review of the case. The Regional Director reported that the Ministry's Policy and Procedures manual states that the Superintendent of the facility should consult with the local Crown Attorney to determine whether the case should be dealt with under criminal law or by the Superintendent as a matter of internal discipline. The Regional Director said that his review revealed the institution had not consulted with the Crown Attorney before taking away the inmate's earned remission as an internal disciplinary measure. He concluded that as a result of this omission, the institution would give the inmate back his lost earned remission.

REMISSION
LOST AND
REGAINED



Mr. A was an inmate who learned late on a Friday night that his mother had died in another city. As he wanted to attend her funeral, staff asked him to get details about the time and location. On the following Monday, he was advised that he could attend the funeral but would have to pay \$1600 for the cost of transportation and an escort. Mr. A

was very unhappy about having to pay this amount, particularly because he was aware that a bailiff's bus had left the institution early Monday morning for the same destination, and that his transportation would have been free if he had been a passenger.

When contacted by an Ombudsman Investigator, staff at the facility said they had not

COSTS FOR FUNERAL
LEAVE REVIEWED

received the information about the funeral in time to make arrangements for the bailiff's bus. However, Mr. A maintained that the information had been forwarded prior to the Monday morning. Our inquiries were not able to determine with certainty when facility staff had the information needed to allow them to make a decision about transportation. However, we were informed that the facility's policy regarding requests for tempo-

rary absence passes had been amended to ensure that any similar situation in future would be treated as a priority. In addition, provision would be made in future for the bailiff to be contacted if necessary. Finally, as a gesture of good will, the facility agreed to share the transportation costs with the inmate and to refund him half of the amount he had paid out.



SPECIAL NEEDS ACCOMMO- DATED

An inmate wrote to our office stating that he was having emotional and psychological problems concerning his spouse and children and was experiencing depression and anxiety attacks. He complained that his medical needs were not being addressed. These included his use of anti-depressant and anti-anxiety medications, his request for an angiogram test and dental care, and the fact that his artificial leg was missing. He had also been placed in close confinement because he was being harassed by other inmates.

An inquiry was made to the institution's Health Care nurse. The nurse acknowledged that the inmate was experiencing severe depression and anxiety attacks and explained that he was placed

in close confinement for his own security in view of his vulnerability. The nurse was not aware that the inmate's artificial leg was missing. After reviewing the inmate's concerns, the nurse placed the inmate on high-priority case management and ensured that he was immediately seen by a doctor and psychiatrist. He was also removed from close confinement and placed in a medical unit. As a follow-up, the nurse arranged to have a Special Needs trained staff person provide one-on-one care with the inmate. The inmate's artificial leg was also promptly replaced. Finally, the inmate was prescribed new medication by the doctor and psychiatrist.

RACE COMPLAINT RESOLVED THROUGH MEDIATION

Mr. C, a black inmate, complained to our office that he was dismissed from performing his assigned job at a correctional institution because of his race and colour. He was not satisfied that his concern was being adequately addressed or that he had been given an appropriate explanation.

Because the Ombudsman's office has a protocol with the Ministry of Correctional Services covering the reporting and investigation of incidents related to race, the institution was contacted to determine if it was aware of this complaint and whether it intended to conduct an internal investigation. As a result, an internal investigator was assigned to review the case. Following interviews with several staff, as well as inmates at the insti-

tution, the investigator found no evidence to support the contention that the inmate's dismissal was discriminatory. However, it was found that the abrupt nature of the dismissal and the lack of information provided to the inmate justified the perception that he might have been dismissed because of his race or colour.

Following this internal investigation, Ombudsman staff suggested, in discussion with the investigator, that a mediation process might be useful in this case. This mediation afforded the parties the opportunity to express their perspectives of the events that had transpired. Following this process, the complainant reported that he considered the matter resolved.



QUEBEC INMATE MOVED CLOSER TO HOME

Our office received a letter from a french speaking female inmate, Ms L, who was requesting an interprovincial transfer to Quebec or a transfer to Ottawa because she does not speak English. The letter explained that she was having a difficult time communicating with the administration in the facility where she was being held. An Ombudsman Representative contacted Ms L, who reported

that she had been arrested in Montreal for a charge against her originating in Brockville, Ontario. She was transferred to Brockville jail to attend court and was sentenced to six months in prison. Ms L was then sent to the Vanier Centre for Women in Brampton. She was requesting a transfer to Montreal so that she could be closer to her children, one of whom was in the hospital

“A First Nations inmate wrote to our office from Thunder Bay Correctional Centre to complain about conditions in the facility’s segregation unit.”



and two others were staying with relatives. The Government of Quebec had refused to approve the request because they were conducting an investigation regarding her case.

The Ombudsman Representative contacted the institution and spoke with the Deputy Superintendent of Operations who agreed to review the matter. A few days later, the Deputy reported that a request was on file for an inter-provincial transfer and that a letter had been

submitted by the Manager, Offender Classification and Transfer at the Ministry of Correctional Services indicating that no answer to the request had been received from the Quebec government. In light of this information, the Ministry decided to approve Ms L’s request for transfer to Ottawa. The Deputy Superintendent reported the necessary paperwork would be completed to ensure that she would be transferred to Ottawa prior to her release date.

A First Nations inmate wrote to our office from Thunder Bay Correctional Centre to complain about conditions in the facility’s segregation unit. He said that it was very cold and dirty, the toilets leaked and the mattresses smelt of urine. When contacted by an Ombudsman Representative he said that because he was to be released soon, he did not wish to pursue his concerns as he felt that he had already been ‘railroaded’ because he had written to us. As normal practice, the Ombudsman follows up on cases involving vulnerable inmates such as those in segregation, particularly when they may not pursue complaints because of fear of reprisal. He was told that we would make general enquiries regarding the living conditions in segregation.

We then asked staff at the facility a number of questions, including: how often inmates in segregation receive cleaning supplies; do they do their own cleaning; is provision made for special needs inmates who may not be capable of cleaning; how often are blankets changed; what kind of mattresses are supplied; and how is the segregation area heated?

We were told that the facility is an X-shaped building and that the segregation level is on the lower level of the north wing, which gets the direct wind from the mountains. Heating is provided by baseboard radiant heat in each cell. A thermostat

positioned in the corridor is set at 25 degrees but there is a lot of heat loss through the windows because the cells are on the exterior walls.

Staff at the facility acknowledged that there was no regular cycle for blankets being washed and that adequate hygiene may not always be maintained in the segregation area. They also said that while mattresses were not covered with plastic, officers had been told to change them if there was an odour. This was not being done.

Following our enquiries, the facility reported that it had fixed the leaky toilets and issued a memorandum advising staff of the following: cleaning supplies were to be issued daily; segregated offenders were to clean their cells daily and staff were to ensure that cells were clean for each newly segregated offender; new offenders were to be issued clean clothing, a clean mattress and clean blankets and if any of these were soiled or stained they were to be removed, replaced and either cleaned or taken out of circulation; and additional blankets were to be supplied to inmates in segregation to offset the cold temperature, regardless of their status.

The facility also indicated that they were exploring the possibility of getting additional duct work done so they could reuse an additional wall mounted electric heater, and would be ordering plastic covered mattresses.

**SEGREGATION
CONDITIONS
IMPROVED**





INFORMAL RESOLUTION

The case stories in this section involve the successful application of informal resolution strategies employed by the staff of Ombudsman Ontario. These cases are a sample of the day-to-day work involving complaints which do not reach the formal investigation stage. In each of these cases a successful outcome resulted from cooperation by the governmental organization involved which produced benefits for all parties in avoiding a lengthy investigation process.

WSIB APPROVES SETTLEMENT FOR TERMINALLY ILL WORKER

Mr. D called our office because he was having difficulties with the Workers Safety and Insurance Board (WSIB). He reported that he had been awarded benefits for a workplace injury but the Board refused to pay him. Unfortunately Mr. D had developed a terminal illness and his capacity to deal with the issues involving his claim were limited.

Inquiries were made on Mr. D's behalf with the WSIB. Staff there reported that an award had been made in Mr. D's case but that because he had taken the third party to court for the accident and won a settlement, the benefits awarded were being deposited into a surplus fund. This meant that until Mr. D received the same amount from WSIB on paper that he had received in the court settlement, he would not receive any benefits.

Mr. D reported that the Board did not tell him that if he went to court he would be ineligible for

benefits. His claim was further complicated with the Board because the employer was disputing it. Because of Mr. D's grave circumstances, Ombudsman staff reviewed his entire case record and provided suggestions to his family about possible options which could be pursued should he not be successful with WSIB. An Ombudsman Representative also contacted the Board to request a review of Mr. D's file based on his urgent circumstances to evaluate if further assistance could be granted.

The WSIB agreed to re-evaluate Mr. D's file and subsequently decided that on humanitarian and compassionate grounds Mr. D would be assessed for a permanent disability on an expedited basis and his surplus fund, now totalling \$33,000, would be paid in a lump sum. This resulted in a decision whereby Mr. D now receives a benefit of \$300 per month from WSIB.



FRO CORRECTS PAYMENT ERROR

Mr. Q contacted our office in November 1999 to complain that he had been trying to resolve a situation with the Family Responsibility Office (FRO) since May of that year. Mr. Q stated that his ex-spouse's lawyer forwarded a Notice of Withdrawal on May 13th to the Family Responsibility Office. Then, on May 20th, Mr. Q obtained an amended court order rescinding all arrears and support obligations retroactively to August 1998.

On July 13th, 1999, FRO received over \$2,000 of monies owed to Mr. Q by the federal government and mistakenly forwarded them to Mr. Q's ex-

spouse, the recipient. The Family Responsibility Office acknowledged its error but was unwilling to do anything to return the funds to Mr. Q, and suggested Mr. Q would have to get them back from his ex-spouse directly or go to court to get them back.

An Ombudsman Representative contacted the FRO and following discussions, staff there agreed to issue a cheque to Mr. Q for the full amount. They also undertook to follow up with the recipient to get the funds that were sent to her in error.

Mr. M, a trucker, had been working in Alberta for about a year. His job was to drive rigs from the prairies to Ontario and return. To make his work easier, Mr. M had moved his home to Alberta. When he then moved back to Ontario he went to a Ministry of Transportation (MTO) office to exchange the Alberta license for an Ontario driver's license. Mr. M was told that he would need a medical examination report to get the Ontario license. Following his submission of this report, Mr. M called our office to complain that a medical

is not normally required for his class of license and that the cost of this examination was \$75.00. An Ombudsman Representative contacted MTO and was told that Mr. M was correct, his class of license did not require a medical exam in order to be renewed. A mistake had evidently been made at the local office and it was suggested that if Mr. M wrote to the Ministry and provided a receipt for the unnecessary medical report, he would be reimbursed. Mr. M was contacted and was pleased to receive this news.

ON THE
ROAD AGAIN,
WITHOUT
A FEE



Mr. H contacted our office on Christmas Eve. He said that he and his spouse and cat had no food or money for Christmas and that he was having trouble with the Ontario Disability Support Program (ODSP) office. He had not received his disability cheque that month and the office would soon be closing for the holidays. Mr. H reported that because he changed his address, his bank account had changed and his ODSP cheque had gone into a bank account which did not exist. He was told that his cheque would have to be reissued and mailed to him, and this might take up to ten days during the holiday season.

When an Ombudsman Representative called the ODSP office she was told that his cheque had indeed been sent to a bank account that was closed, but that it was Mr. H's responsibility to inform the ODSP of the correct bank account number. Mr. H pointed out that the office knew there was no bank account but the cheque was sent anyway. The Ombudsman Representative then asked the ODSP office to correct their records and provide an immediate remedy for the holidays by processing a cheque manually. Staff at the ODSP agreed and Mr. H was able to pick up his cheque later on Christmas Eve.

A REMEDY IN THE
CHRISTMAS SPIRIT

Mr. Q contacted the Ombudsman's office because he could not get a health card. He said he had his picture taken, supplied all the necessary information and was told that the new card would be mailed to him. After several months of being told his card was in the mail and not receiving it, Mr. Q was becoming distressed because he had numerous medical expenses and was now paying for them out of his own pocket. An Ombudsman Representative contacted the Ministry of Health to find out what had happened to the health card and was told that the card was in the mail. When the Ministry was asked to verify the address on file, it turned out they had an incorrect street number on Mr. Q's record. They then promised another card would be mailed out immediately, but said it might take six to eight weeks to arrive. As for reimbursing Mr. Q for the health care costs he had accumulated, the

Ministry advised that he should keep all his receipts and submit them after his card was received. Eight weeks later we got another call from Mr. Q that he had not received the OHIP card. The Ombudsman Representative contacted the Ministry to try and locate the missing card and discovered that while the street number was correct, the postal code was wrong. Apparently, the Ministry's software package had automatically changed Mr. Q's postal code to an incorrect one. The Ministry undertook to mail out another card immediately and to expedite the process so that the card would arrive in about three weeks. Three weeks later, Mr. Q called to say he had received his OHIP card. He had also resubmitted his receipts on the understanding his costs would be covered.

THE OHIP
CARD IS IN
THE MAIL



Mr. S, a senior citizen, called our office because of long-standing problems with the Workplace Safety and Insurance Board (WSIB). He said that following a Board decision not to allow his claim, he had appealed to the Workplace Safety and

Insurance Tribunal (WSIAT) and won the case. However, decisions of the tribunal are then sent back to the Board for implementation and in his case the Board would not implement the tribunal's decision. At the time of contacting our

TRIBUNAL APPEAL
DECISION STALLED

office, Mr. S had been unable to work for twenty-three years and was now retired. He said the Board had failed for more than three years to implement the favourable decision.

In response to inquiries by an Ombudsman Representative, the WSIB stated that implementing the decision of the tribunal required receipt of a new set of medical reports from Mr. S. The Board said that Mr. S was told he would need a diagnosis and detailed lab reports of recent tests. Mr. S was not willing to undergo further tests and maintained that the Board had all the information to implement the award decision. The Board insisted that new tests were needed as the original information was now decades out of date, that there had been no diagnosis at the time of the injury and that the Board did not understand how the original injury had caused Mr. S's various health problems.

The Ombudsman Representative continued discussions with the Board staff, emphasizing Mr. S's advanced age and his desire to have the issue resolved. The Board eventually decided that Mr. S's award would be determined, without precedent, based on the information already on record. Mr. S was then awarded a partial disability which, calculating compound interest and the Older Worker Supplement, totalled \$43,000.

Mr. S, however, was not satisfied with this amount and filed an appeal of the award decision with the tribunal. He also complained that the Ombudsman had not been able to change the legislative requirements which allowed the Board to require up-to-date medical reports. While his appeal to the Tribunal is underway, he is now receiving a monthly WSIB pension of \$200.



A CANADIAN SUCCESS STORY

A newcomer to Canada contacted our office regarding a delay by the Ministry of Transportation in scheduling a driver's test. Mr. D explained that he had recently arrived in Canada and had found employment as a travelling salesperson but needed a driver's licence to start his new job. His funds were low because he had been required to pay six months rent as an unemployed newcomer.

In addition, he was supporting his spouse and two children. An Ombudsman Representative contacted the Ministry of Transportation and explained the complainant's circumstances. The Ministry responded promptly by agreeing to schedule Mr. D's driver's test at an earlier date, allowing him to meet his employment requirements.

HYDRO CROSSES WIRES

Ms E, a senior, called our office to complain about her dissatisfaction with Ontario Hydro. She reported that one day her TV converter, VCR and receiver suddenly blew at the same time. Seeing smoke coming from her electrical outlet, she called the fire department, which investigated but found no fire and told Ms E to call an electrician. The electrician said it was not an electrical problem and encouraged Ms E to call Ontario Hydro. Ms E called Ontario Hydro, which visited her home and said everything was in working order and there were no problems.

An Ombudsman Representative called Ontario Hydro to make inquiries on Ms E's behalf. It was then determined that Ontario Hydro had done some work on the underground cable line going by her trailer. The Ombudsman representative was told that if Ms E supplied receipts of the costs of repairing or replacing her damaged appliances, these would be reimbursed. Ms E then asked a friend to write the letter. She eventually had her radio repaired, bought a new VCR and had the other items serviced. The total bill was \$800 and this amount was paid by Ontario Hydro.



TERMINATED PROGRAM MEETS OBLIGATION

Ms D contacted the Ombudsman's office because she was concerned about not being paid for a course she had taken. Ms D was to have been reimbursed for the cost of tuition through the Ministry of Community and Social Service's Vocation-Rehabilitation (VocRehab) program. Several months later, she had not been reimbursed and was unable to contact anyone to make inquiries because the Ministry had termi-

nated the VocRehab program. As a result, there was no office for Ms D to call.

An Ombudsman Representative was referred to a Ministry employee who was familiar with the VocRehab files. The employee checked Ms D's file and confirmed that she had not been paid for her course. Arrangements were made for the Ministry to reimburse Ms D for her tuition costs promptly.

“Ms M, who is visually impaired, contacted the Ombudsman’s office because the allowance she had been receiving from the Ministry of Community and Social Services for her working dog had been terminated.”



Ms M, who is visually impaired, contacted the Ombudsman’s office because the allowance she had been receiving from the Ministry of Community and Social Services for her working dog had been terminated. Ms M is in receipt of disability benefits that include an amount to cover the expense of having a working dog. She expressed concern that the Ministry may have terminated the allowance for her dog because they thought her dog was not a necessity. Ms M’s disability is not visible, and when she is having a good day, she doesn’t appear to be ill. She sug-

gested that staff at the Ministry may not have realized how much she depended on her dog for assistance and reported that she could not afford the extra expense of maintaining a large dog on the income she received from disability benefits. An Ombudsman Representative called the Ministry and spoke with a supervisor who quickly determined that the allowance for Ms M’s dog was deleted in error. Arrangements were made for a cheque to be issued to make up the difference for lost benefits and to reinstate the full allowance.

**DISABILITY SUPPORT
REINSTATED**

Ms S had contacted Ombudsman Ontario regarding a concern she had with the Family Responsibility Office (FRO). Her ex-partner was several thousand dollars in arrears with his child support payments. Ms S believed that her only chance at securing some of the arrears was for FRO to seize funds held in trust by her lawyer. The funds were in trust as the result of the sale of the family home and represented the payor’s share of a divorce settlement.

Ms S’s financial situation was quite desperate. She had no source of income and has a disabled child to care for. She was ineligible for Ontario Works benefits because she had a leased vehicle and the lease agreement was such that she was unable to break the contract. Her situation was also urgent because her lawyer was obligated to release the funds in trust once the court order was signed.

An Ombudsman Representative contacted the

FRO to determine if steps could be taken to seize the funds held in trust so that Ms S could obtain the arrears owed to her. FRO staff indicated that although the arrears were owed, they were unable to take action to seize the funds until a copy of the new court order was received. The situation had become a Catch-22: if the court order was signed and sent to the FRO, then the lawyer was legally obligated to release the funds to Ms S’s ex-partner, and the opportunity to obtain the arrears would be lost.

The Ombudsman Representative explained to FRO staff the dire financial circumstances that Ms S was facing. After several calls, the FRO agreed to take the necessary steps to seize the funds, provided that the lawyer sent them a copy of the draft court order. The draft order was provided via fax and \$2,991 in child support arrears was seized and paid to Ms S.

**CHILD
SUPPORT
ARREARS
SEIZED**



Ms D, a resident of Quebec, wrote a letter to our office with her complaint of a two-year delay in having an autopsy report completed by the Coroner’s Office at the Ministry of the Solicitor General. Ms D’s spouse suffered a tragic accident and died while visiting in Ontario. Almost two years later, his widow had applied for his death certificate from the Registrar General’s Office, but was told they had no record of his death.

Ms D then contacted the Coroner’s office and discovered the final report had not been completed.

After several calls and letters from her lawyer to the Coroner’s office failed to get a satisfactory response, she contacted our office for help. An Ombudsman Representative contacted the District Coroner’s office in Northern Ontario, which was responsible for the autopsy. Following a number of inquiries with the District Coroner, the report was completed and the proper forms were filed with the Registrar’s Office. Ms D was then able to obtain her spouse’s death certificate.

**DEATH CERTIFICATE
DELAYED**



“Ms N contacted the Ombudsman to discuss her dissatisfaction with the delay in the Ontario Student Assistance Plan (OSAP) issuing her a reimbursement for a childcare bursary.”

OSAP FIXES DELAY, APOLOGIZES

Ms N contacted the Ombudsman to discuss her dissatisfaction with the delay in the Ontario Student Assistance Plan (OSAP) issuing her a reimbursement for a childcare bursary. Ms N claimed that she was advised several times it would be only six to eight weeks to review her file and process a reimbursement. She had been waiting over eight months.

OSAP informed an Ombudsman Representative that there was information missing from Ms N's file and advised that, upon receipt of this information, the file would be processed on a priority

basis. Ms N provided the documentation to the Ombudsman Representative who then forwarded it to OSAP. Several months later, Ms N again contacted our office to complain, stating that she still had not received her reimbursement. When contacted, OSAP confirmed it had received the documents and that Ms N would receive a refund of \$4,200 along with a letter of apology for the delay. Ms N reported a week later that she had received the reimbursement and the letter of apology from OSAP.



ACCOMMO- DATION FOR MENTAL DISABILITY

Mr. O is an older person with severe mental disabilities. He is lacking memory of details about his life, such as the name of his parents and his date and place of birth. As a child he was placed in the provincial schools system for persons with disabilities and has always received benefits of one type or another from government.

A representative of Mr. O contacted Ombudsman Ontario to explain that Ontario Disability Support Program (ODSP) benefits were about to be terminated because he did not have a valid birth certificate. When the Registrar General was contacted, staff there advised that a birth certificate could not be issued because the complainant could not provide pertinent information.

An Ombudsman Representative contacted Mr. O's ODSP caseworker and confirmed that in exceptional circumstances, ODSP staff can act as a Commissioner of Oath to assist a benefits recipient in swearing an affidavit. The ODSP caseworker advised that if the complainant's representative could provide confirmation from the Registrar General that she could not get a birth certificate for the benefits recipient, then the ODSP would have Mr. O sign an affidavit. The Ombudsman Representative then contacted the Registrar General and was advised that Mr. O's representative could re-submit an application for a birth certificate with a statement outlining his situation. The Registrar General agreed to issue a birth certificate for Mr. O upon receipt of this application.

ODSP RELEASES THE CHEQUE

A psychiatric consumer contacted our office because the Ontario Disability Support Program (ODSP) withheld her benefits for the month of November. Ms Y explained that she had been incarcerated for three days and then hospitalized for approximately two weeks due to a mental

illness during that month. An Ombudsman Representative contacted staff at the ODSP who, following a further review, determined that the circumstances warranted the immediate release of Ms Y's cheque.

Mr. H contacted Ombudsman Ontario with a complaint concerning Ontario Hydro. A hydro pole was encroaching on his property without proper easement rights and this was contributing to serious drainage problems. The drainage issues had been resolved through an arbitration process in which the municipality and a neighbour would compensate Mr. H in return for a drainage easement to the town. Ontario Hydro was also offering compensation to Mr. H for the pole easement. He was, however, reluctant to accept the offer because he did not know if such an easement would be compatible with the municipal easement. Ontario Hydro wanted to see the situation resolved and was contemplating moving the pole completely across the road as an alternative,

without any compensation to Mr. H. As a complicating factor, Mr. H had to leave the province for several weeks during this period of time to attend to a family emergency.

An Ombudsman Representative had several discussions with all parties involved to seek an agreeable solution. While Ontario Hydro was firm in its final offer of compensation, Mr. H was still concerned about the municipal easement. The Ombudsman Representative suggested that the municipality write a letter to Mr. H stating their position that the pole location would not interfere with their drainage course. Upon receipt of this letter Mr. H was pleased to settle the matter by accepting Ontario Hydro's offer.

ALL PARTIES
ASSIST IN
RESOLUTION



A sole support parent who had suffered a history as the victim of domestic violence approached the Ombudsman's office via the Internet to assist her. She had been denied certificate coverage to seek a support and custody order by Legal Aid Ontario (LAO). Ms J indicated that over a period of two and a half years she had applied several times but had been denied each time. She said that she was trying to obtain the order while in hiding (she feared for the safety of her children and herself). Ms J had appealed the most recent denial to the Area Committee for LAO but had been denied. She reported that she had not received any notification that she was entitled to an additional appeal to the provincial LAO office.

An Ombudsman Representative contacted the Director of the regional office, who confirmed

that applicants should be notified in their decision letters of the appeal process. The Director also said that applicants should provide information on how their application meets the LAO Priority Guidelines. The Ombudsman staff provided this information to the applicant, as well as a referral for obtaining a free copy of the LAO Priority Guidelines. Ms J then decided to apply for coverage again, using the information provided by the Ombudsman staff and the LAO Priority Guidelines. She called back within a week to say that her new application had been approved with maximum coverage. She attributed this result to the information provided by the Ombudsman Representative and the call made to the LAO on her behalf by the Ombudsman staff.

SOLE SUPPORT PARENT
GETS LEGAL AID

Ms N wrote to the Ombudsman with a complaint against the Ministry of Labour's Employment Standards Branch (ESB). She explained that the ESB had ordered her former employer to pay her termination pay and that when the employer failed to pay, the ESB had a collection agency retrieve the wages. After the collection agency informed her that the entire amount had been forwarded to the ESB, Ms N had to write three different letters to the officer in charge of her claim before she received a reply, four months from the date of her first letter.

In this reply, an Employment Standards Officer explained that there was no protocol to allow for payment of funds that had been received in installments. An Ombudsman Representative contacted the ESB District Manager to make inquiries concerning what seemed like an unreasonable delay in resolving this matter. That same day the ESB reported that the money would immediately be released to Ms N, ten months after it had been received.

LOST WAGES
RETRIEVED





KEEPING THE LINES OPEN

Mr. A contacted our office with a complaint about the Ministry of Natural Resources (MNR). Mr. A is a rotary phone user and for this reason it was not possible for him to use MNR's telephone system, which at the time did not provide a rotary phone user with options to either wait on the line to leave a message, or to reach someone directly.

An Ombudsman Representative contacted the Ministry and after some tests, it was acknowledged by the Ministry that there was a deficiency in the telephone system. The Ministry promptly implemented changes to its system so that a rotary phone user can now leave a message or reach someone directly.

FRO ADDRESSES DELAY PROBLEM

Ms H is a recipient of payments from the Family Responsibility Office (FRO). The payor on her case moved to Virginia (USA) in September 1998. Ms H had been trying since that time to have the FRO send her case to the Virginia enforcement office under a Reciprocal Enforcement Support Order (RESO). She had tried to speed up the process by providing the payor's address and work locations. However, problems occurred at the FRO including the loss of her file, errors in calculating the back support owed (arrears), and a necessary delay associated with investigating the payor's false claims of a new order. Ms H had enlisted the support of her lawyer but after a year could no longer afford lawyer's fees. She then approached the Ombudsman's office to complain about the continuing delays, although she did note the extensive efforts made by her Case Owner in attempting to administer her file.

An Ombudsman Representative made inquiries of the Case Owner at the FRO who confirmed there had been delays in processing the file. She acknowledged that the file had been misplaced before the case was sent to her and that she had to rebuild the file completely. She also indicated there were errors in calculating arrears that had to be corrected before sending the file to RESO and that the FRO had to investigate the payor's claim of a new order. As a result of inquiries by our office, the Case Owner placed a priority on all actions on the file and organized a rush delivery with the Court for the certified court orders required. She contacted the lawyers for the recipient and payor and disproved the claims of a new order. She also placed a rush on re-adjusting the arrears, which amounted to nearly \$90,000. After two years of delays and within three months of the Ombudsman Representative's involvement, the FRO forwarded the file to Virginia for enforcement.



CLARIFYING RIGHTS OF PEOPLE WHO ARE BLIND

Ms P contacted our office with a complaint about the Ministry of the Attorney General (MAG) and its service delivery with regard to her questions concerning the *Blind Person's Rights Act*.

Ms P is a blind person who has a guide dog. The *Blind Person's Rights Act* authorizes the Attorney General to issue to a blind person an identification card, identifying the blind person and guide dog. The bearer can present this card as proof that the individual is entitled to protection under the *Act*, which makes it an offence to deny a blind person accompanied by a guide dog the accommodation, services, or facilities that would ordinarily be available to members of the public.

Ms P's complaint was specifically related to the statement on the identification card issued by the Ministry on which it was indicated that the Ministry could be contacted "for questions or alleged violations" under the *Act*.

When Ms P called the Ministry with questions about alleged violations under the *Act*, the information provided by the Ministry concerned how she could obtain the card and how to contact the Ontario Human Rights Commission. An Ombudsman Representative who spoke with Ms P made inquiries of the Ministry, which confirmed the information provided by Ms P. As a result, the Ombudsman wrote a letter to the Ministry requesting clarification of its services. In reply, the Ministry acknowledged that although they do not enforce the *Act*, the statement on the identification card could lead to confusion in this regard. As a follow-up to the Ombudsman's concerns, and to prevent misunderstanding about the Ministry's role in the enforcement of the *Act*, the Ministry is now implementing measures to provide more information to the public on the *Blind Person's Rights Act*.

“Ms D, who has a disability and lives on social assistance in a rural area, contacted our office with allegations that Ontario Hydro had not done a meter reading in nine months but had sent her a bill for \$1,200.”



HYDRO CORRECTS
ITS RECORDS

Ms D, who has a disability and lives on social assistance in a rural area, contacted our office with allegations that Ontario Hydro had not done a meter reading in nine months but had sent her a bill for \$1,200. She also contended that Hydro was charging her at the commercial rate instead of the residential rate. She reported that Hydro wanted the \$1,200 immediately and that this was creating an impossible situation for her. She had attempted to negotiate a repayment plan that would bring the account up to date within 18 months, but Hydro would not accept her proposal and was threatening to cut off her power if she did not commit to being paid up within twelve months.

An Ombudsman Representative contacted Hydro and was informed that meter readings are usually done every three months for residential properties and once a year for cottages. They

could not explain why this schedule was not followed for Ms D. As a result of further inquiries, it was discovered that there was indeed a mistake on Ms D’s account which incorrectly recorded her property as a commercial user. Evidently this mistake originated when the previous tenant, a restaurant owner, had moved on and Ms D moved in. Despite the landlord having sent the proper forms to Hydro, its records were not updated.

As a result, Hydro agreed to give Ms D two months credit on service charges and to investigate why the meter reading had not been done for nine months. Hydro also undertook to send the necessary forms to Ms D to change her account from commercial to residential and following a reclassification, the amount owing would be revised. Ms D was very relieved to have her situation resolved.



THANK YOU LETTERS

At the conclusion of a satisfactory settlement, regarding the above-noted file, I would be remiss in finalizing the matter if I did not convey my utmost thanks and appreciation to all of those dedicated persons within your organization who worked so diligently on (our) behalf. There is no doubt in my mind that without the support of yourself and those who assisted you, we would not have reached a satisfactory conclusion. In particular, you have been extremely professional. The confidentiality you exercised was understood and appreciated. I want you to know your dedication throughout this long ordeal is recognized with gratefulness. The staff and management of the office of the Ombudsman Ontario has my utmost respect and admiration. Thank you so very much!

I simply wish to express my appreciation for the help and service that I received from a member of your staff. I feel that if we are to prosper as a society it is critical that we have organizations and people such as yours. I consider that I have been blessed with a generous level of opportunity, education and experience in this life but even for me the bureaucracy can be overwhelming at times. I am pleased that others have people such as yours to turn to when the need arises. Thank you for your efforts, information and advice, but even more for your convictions.

I wish to express my gratitude to the office of the Ombudsman and by that I mean the people, the generous, helpful and methodical people who every time I have called for help, help...(they are) a lifeline voice who have never failed to undertake a problem which we, the powerless, simply cannot conquer because of the intransigent bureaucracy of a jail. Thank you one and all.

I would like to take this opportunity to express my gratitude for the way you have handled my case. Your help was greatly appreciated, and without it I don't think that this would be resolved as quickly and effectively as it was. It's very rare that someone takes their time, like you did, to help out in a situation like this. Thanks to you my driver's license was reinstated, and I can proceed with my duties at work. Once again thank you very much.

Thank you for helping me get resolution on my claim to the WSIAT for expenses. The initial claim was made in

February of 1996. Although the majority of my claim was paid after 37 months, they were giving me problems on the balance. I anticipated another long and drawn out process. You cut through all the baloney and I received the balance of my claim within six weeks. Fantastic job. Thank you for your help.

I would like to express my sincere gratitude to you for your assistance with my recent problem with the Ministry of Transportation. The situation was going on during the past four months and I was getting to a point of real frustration. Your patience, kindness, phone calls and quick action has put my life back to normal and I am very grateful to this organization and to you for all your help and immediate results. I realize this is part of your job to do these things but you've done an excellent job. Once again thank you very much.

I want to thank you so very much for the kind and efficient manner in which you dealt with our recent problems with the Family Responsibility Office. I don't know if you could have any idea how much of a relief you have given this family after months of unrelenting stress and frustration. Merely saying "thank you" is not enough. Please know that your assistance has made a tremendous difference in our lives. You have given us back our peaceful, happy home.

I am writing this letter to thank you for providing assistance when some of us are confused by the inside logic of our bureaucratic system. Recently I required such help and (staff person) not only responded, but did so with enthusiasm and sincerity. On behalf of the average citizen, thank you for being there and a special thanks to (staff person) for her special effort in my case.

May I take this time to offer my heartfelt thanks to your office and to you personally for helping a guy that was at his wits end. You have restored my faith in the democratic system in this province as the treatment I received for the past few months has been very frightening to say the least...up to the time I contacted you. So, again, thank you for your very fast, efficient, and comprehensive assistance in this matter...you are a valuable member of a vital office for this Province.



About our logo: This is the symbol for Ombudsman Ontario. The “O” stands for our name. Inside, three sets of arms are coming together: one each for the public, the government and our office.

MISSION STATEMENT

In striving to achieve our vision, Ombudsman Ontario is committed to the following goals for fairness and service:

- Investigate and resolve complaints efficiently
- Deliver relevant, timely, impartial and accessible services
- Foster objective standards of governmental administration
- Act as a resource to governmental organizations and the public to prevent future complaints
- Increase public awareness of Ombudsman Ontario’s services
- Be ethical and accountable
- Encourage teamwork through consultation and communication
- Monitor and evaluate our organizational performance
- Realize individual potential through proactive human resource practices

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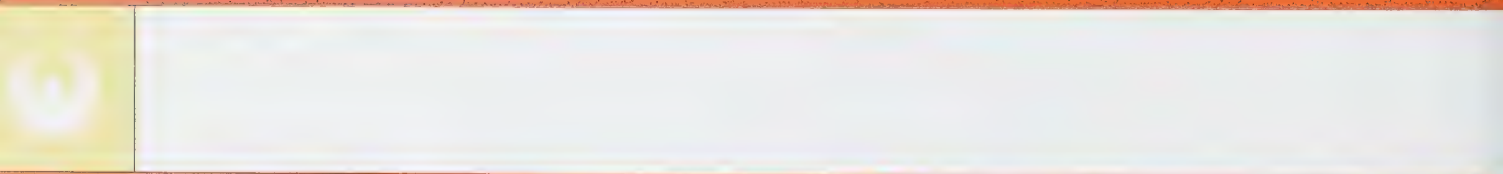
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